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To: Adult Social Care and Public Health Policy Overview and Scrutiny Committee – 20 September 2011

Subject: **ADULT SOCIAL CARE ANNUAL COMPLAINTS REPORT (2010-2011)**

Classification: Unrestricted

Summary: This report provides Members with information about the operation of the Adult Social Services complaints and representations procedure between 1 April 2010 and 31 March 2011.

Introduction

1 (1) Local Authorities have a statutory duty to have in place a complaints and representations procedure for Adult Social Services. Furthermore, each local authority that has a responsibility to provide social services is required to publish an annual report relating to the operation of its complaints and representations procedure.

(2) The report is presented to Members on an annual basis and gives details of complaints and representations activity across adult social services. This report provides Members with information about the operation of the Adult Social Services complaints procedure between 1 April 2010 and 31 March 2011.

(3) This report provides a brief overview of the complaints procedure, together with summary data on complaints and enquiries received during the year. It also provides Members with examples of the lessons learned from complaints which are used to inform and improve future service delivery.

Policy Context

2 (1) The Local Authority Social Services and National Health Service Complaints (England) Regulations were effective from 1 April 2009 and introduced a single approach to dealing with complaints for both the National Health Service and Adult Social Care.

(2) Local authorities are required to appoint a complaints manager who is responsible for the operation of the complaints procedure. This includes all aspects activity.

The complaints procedure

3. (1) The main objective of the 2009 procedure was to deliver a consistent approach to complaints handling for both health and social care. It also introduced the concept of responding to complaints on a proportional basis dependent upon the circumstances of the complaint. The complaints file should reflect the reasons why the final response is deemed, 'proportionate', as this will be referred to if the complainant exercises their right to contact the Local Government Ombudsman, if they remain dissatisfied.

3.1 Key Principles of the process

(1) The current process has three key components:

- i. **Listening** – establishing the facts and the required outcome
- ii. **Responding** – make a reasoned decision based on the facts/information
- iii. **Improving** – using complaints data to improve services and influence/inform commissioning and business planning processes

(2) Cross boundary complaints, involving health and social care fall are dealt with via a single, co-ordinated response. To facilitate this, a joint protocol was developed by the Complaints Managers in Kent and Medway and is working well.

3.2 Recording complaints

(1) All complaints, comments and compliments data is logged on a specialised database, facilitating the recording, monitoring and reporting of data, which is easily accessible to customer care staff.

(2) The only statutory timescale in the process relates to the acknowledgement of the complaint which is within 3 days from receipt. Thereafter, the response time is agreed with the complainant and reflects the circumstances and complexity of the complaint.

(3) A risk assessment of each complaint is carried out and recorded on the database. This is reviewed by the Ombudsman if a complaint is subsequently referred to them.

3.3 Publicising the complaints process

(1) The regulations require the complaints procedures to be publicised and the leaflet, "Comments, Complaints and Compliments", is readily available in hard copy and on the website. It is also available in alternative formats upon request.

Statistical Data

4. (1) In 2010/11, 459 statutory complaints were received. Enquiries (mainly from MPs) have risen significantly in the same period.

(2) During 2010/11 the number of people who were referred to Adult Social Services was 32,007 and there were 25,883 people in receipt of services as at 31st of March 2011. This compares with 2009/10 where 33,172 referrals were made and 28,167 people received a service as at the 31st of March 2010. Analysis of these figures indicates that complaints represent approximately 2% of those people who have contact with our services.

(3) Further details of the number of complaints and representations are shown in the following paragraphs, with relevant analysis.

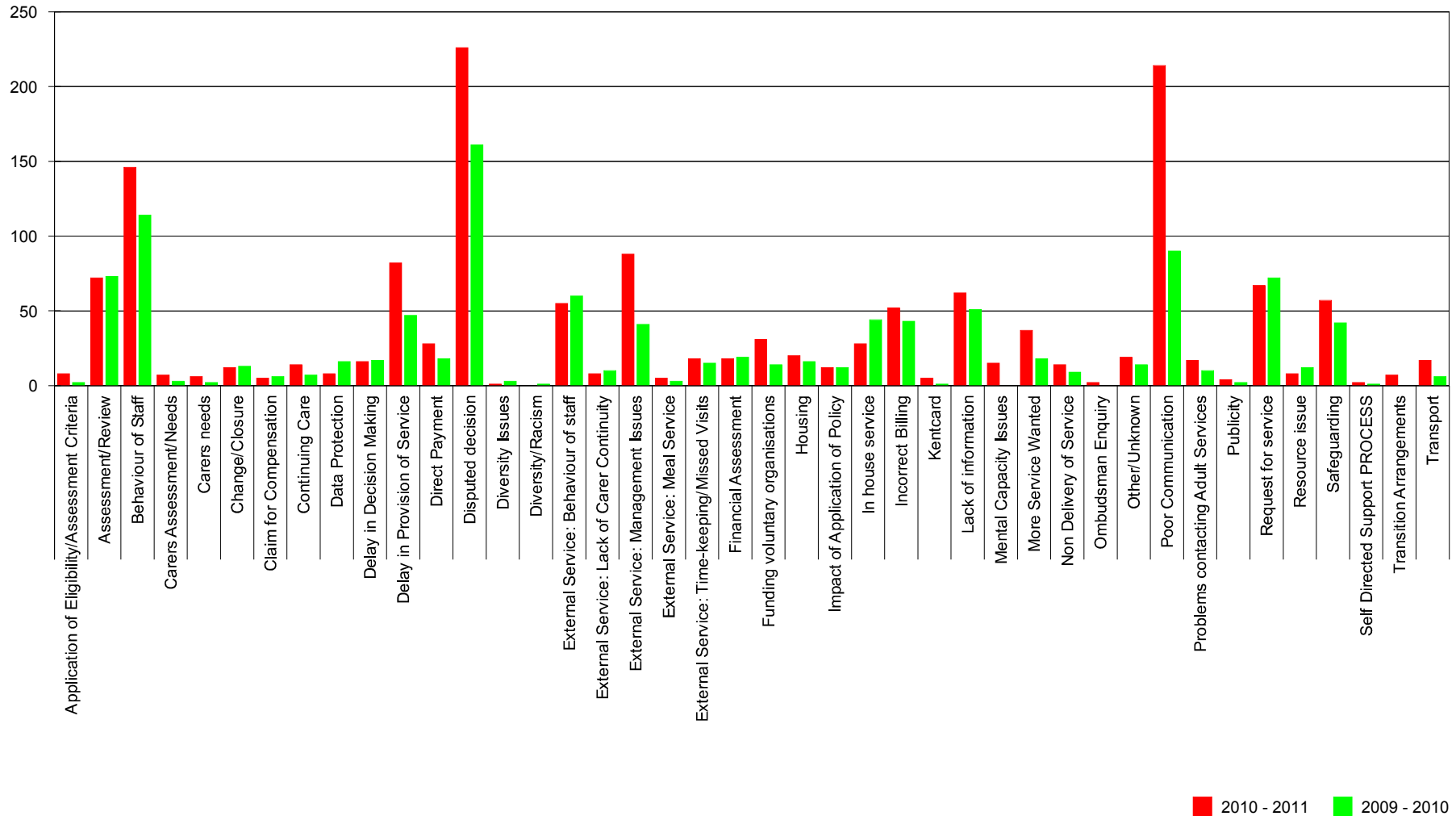
a) Total Representations

	2009 -10	2010 -11
<u>Total Representations Received:</u>		
Statutory Complaint	342	459
Non Statutory Complaint*	95	68
Enquiry	213	266
Total	650	793

Safeguarding	36	64
Informal resolution	37	34
Compliments	503	598

* The reduction in Non Statutory complaints is the result of a mid year categorisation change. All complaints from people who are in some way affected by the work of the Council are now categorised as Statutory complaints. For future years, Non Statutory Complaints will cease to be a category of reported complaints within Adult Social Services.

Complaint, enquiry and informal resolution analysis - 01.04.10 - 31.03.11



Please note that the number of compliments (thank you letters) received during these periods are: 598 in 2010-2011 compared with 503 in 2009-2010. These are not represented in the above graph due to the high numbers which would skew the presentation of the data.

(c) Analysis of complaints

(4) Analysis of statutory complaints for 2010/11 shows the following increases against 2009/10 data:

31% regarding Older People's services (290)

50% regarding Learning Disability (78)

66% regarding Physical Disability (55)

(5) In respect of the main subject of each statutory complaint, 36% (164) of complaints were about a disputed decision, 25% (114) were about Communication with a further 14% (65) about behaviour of staff and the final 25% (116) were regarding concerns about external agencies. A further analysis of complaints by service and subject is shown in the following tables:

SERVICE	2009/10	2010/11
Older People	223	290
Learning Disability	52	78
Physical Disability	33	55
Finance	32	30
Mental Health	1	2
Other	1	4
Total	342	459

2009/2010	Disputed Decision	Poor Communication	External Agency	Staff Behaviour
Older People	101	60	41	21
Learning Disability	25	17	3	7
Physical Disability	12	8	4	9
Finance	18	12	N/A	2
Mental Health	1	-	-	-
Other	1	-	-	-
Total	158	97	48	39

2010/2011	Disputed Decision	Poor Communication	External Agency	Staff Behaviour
Older People	103	48	100	39
Learning Disability	35	25	9	9
Physical Disability	16	20	6	13
Finance	8	20	N/A	2
Mental Health	2	-	-	-
Other		1	1	2
Total	164	114	116	65

SUBJECT	2009/10	2010/11	% of total subject (2010/11)
Disputed Decision	156	164	36%
Poor Communication	97	114	25%
External Agency	48	116	25%
Staff Behaviour	39	65	14%
TOTAL	340	459	

(6) The percentage of statutory complaints that were found to be partially or completely upheld was 72% across the County, which equates to 325 complaints. Further analysis of this is shown below:

Upheld / Partially upheld statutory complaint outcome by Main Subject area:

	Disputed Decision or Policy	Poor Communication	Service Delivery (Ext Org)	Staff	Value for Money	Total
Partially Upheld	55	53	24	20	0	152
Upheld	30	70	23	27	0	150

Upheld / Partially upheld statutory complaints by Main Service area:

	Finance	Learning Disability	Mental Health	Older People	Physical Disability	Prov & Modernisation	Strat Com Unit	Total
Partially Upheld	2	38	1	95	15	0	1	152
Upheld	17	15	0	95	21	1	1	150

(7) 52 joint complaints were processed with health colleagues over the reporting period.

(d) Performance against timeframe

(8) The average response time for statutory complaints across the County is 16 working days. As mentioned previously, the legislation allows for the response timescales to be agreed with the complainant. However, a Senior Management Team decision advocated the target response time as 10 working days for less complex cases that do not require either an off-line investigation or liaison with health colleagues. This is not a statutory response time and can be revised with the agreement of the complainant, if necessary.

(e) Themes identified:

(9) **Behaviour and Poor Communication** - 25% of the complaints received during the period were attributed to poor communication or behaviour of staff. This is a consistent pattern each year. A separate piece of work has been commissioned by the County Good Practice group which details the complaints made about behaviour of KCC staff and poor communication and makes recommendations for improvement. Many of the complaints were more about how management guidance was communicated to service users. The guidance is currently under review and will be completed within a month. This will be supported by training sessions for staff.

(10) The Customer Care Managers are also assisting KCC colleagues in developing a Communications Charter as part of the Customer Care Strategy.

(11) **Disputed Decision** - Set against the backdrop of wider economic challenges, organisational change and the requirement to implement Management Actions, it is understandable that there are a high number of complaints citing the issue of "disputed decision". Often these are around funding decisions or the level of support plans.

(12) It is anticipated that given the Council's proposed changes to the charging policy and in-house residential services that there will be a further rise in complaints during the forthcoming year.

Off-line and external investigations

5. (1) There were 15 off-line/external investigations carried out during the year. Four were commissioned externally and the direct financial cost of these was £8,830. In certain circumstances, including when the complaint issues are particularly complex, where communication has broken down or confidence in the organisation has been lost family has lost confidence in us, it is advisable to appoint an external investigator. In these cases, the complainant has felt their complaints have been taken seriously and an impartial view has been offered.

Financial

6. (1) Goodwill payments of £4,643.84 have been made as part of the local resolution process.

Complaints from the Local Government Ombudsman (LGO)

7. (1) There were a total of 35 referrals to the LGO, broken down as:

- 25 – East Kent
- 6 – West Kent
- 4 – HQ

Of these, 11 were upheld, one partially upheld and the remaining were:-

- Premature - five
- not upheld - eight
- withdrawn - three
- discontinued investigations – three
- requests for information - two
- current – two.

(2) This increase on the previous year's referrals to the LGO is likely to be attributable to the change in the statutory process. This gives the complainant recourse to the LGO after the Council's first attempt at resolution.

(3) One of the issues highlighted by a recent LGO complaint is KCC's lack of evidence to learn from previous LGO reports against the Council. In future, all LGO findings against FSC will not only be circulated to FSC Managers, but will also be reported to DMT and, if appropriate, highlighted and minuted at CMT/PAT.

(4) In response to complaints, the Council has paid a total of £25, 847.10 as direct financial recompense to complainants and clients. This figures does not include £2,524.04 representing a refund of residential care charges (premature complaint), £613.66 representing the waiver of residential care charges and £1,928.00 representing a local settlement.

What we are doing

8. (1) The main lessons that have been identified [and changes that have been implemented](#) across Adult Social Care are as follows:

- The Safeguarding process has been reviewed and changes made to improve the communication with families during a safeguarding investigation. The associated forms used during the safeguarding process have also been revised.
- Refresher training has been delivered to some teams to ensure they understand their responsibilities under the Safeguarding process and reminders to staff have also been given during team meetings.
- Recognise that the number of complaints has gone up and this is an area of concern. Maintaining a positive response to each complaint and seeking to achieve an agreed resolution is a high priority. Types of complaints are monitored to identify developing trends and to ensure these are addressed systemically as quickly as possible.
- The need to improve communication is highlighted in many complaints, this is addressed during one to one supervision with staff and also the work commissioned by the Good Practice Group.
- Record keeping – staff are regularly reminded of the importance of accurate and timely record keeping via their managers, team meetings and the Good Practice Group.
- A separate piece of work is being carried out to make recommendations on the most appropriate method for the recording of contact with families and other professionals.

- The procedures for transporting service users with a learning disability to day centres has been revised and improved.
- Some teams have received further training on the Direct Payment system to ensure that case workers are promoting the system appropriately.
- Complaints have highlighted the need to improve the information provided to explain third party top-ups, client contribution and private top-ups.
- A process has been developed to ensure staff receive feedback following the closure of a complaint. Staff feedback forms are issued to consider a number of issues including the possibility of further training.
- Complaints have highlighted that families have not always accepted that information has been supplied. A process is being developed to confirm the receipt of specific information provided to families.
- Work is being undertaken to look at ways to improve the transition process between the Children's and Adult's teams.
- Staff have been reminded of the need to collect evidence to confirm that a representative has the authority to act on a service user's behalf under the Power of Attorney regulations.
- Specific letter writing training has been commissioned for managers in response to the need to improve the quality of complaint response letters.

(2) The details of the agreed changes to the dissemination of lessons learned from complaints is annexed as **Appendix A**. The County-wide Group have regular quarterly meetings to discuss the lessons that have been highlighted from complaints.

(3) Since November 2010, 37 complaints have been identified as being a direct result of how management guidance was communicated to service users. The guidance is under review and will be completed within a month.

(4) A Team Briefing has been produced and disseminated which summarises the key messages highlighted from complaints and will be produced on a six monthly basis. This is annexed as **Appendix B**.

Quality of complaint responses

9. (1) Given the rise and complexity of complaints it is increasingly important to improve the quality of the responses. The response letters are signed at Head of Service level and it therefore expected that these senior managers take personal responsibility to ensure clarity of content, consistency of messages and that the complaint is answered in full. Further information on letter writing training to assist with this is detailed in paragraph 10.

Staff training

10. (1) The rolling programme of training for staff comprises:-

- Mandatory letter writing training - for new Senior Practitioner Team Leaders and those Managers identified as requiring additional skills in this area, delivered by external trainer and facilitated by the Customer Care teams. This is a new training programme, five sessions are planned for 2011-12.
- Investigating complaints – training for managers provided by the LGO and facilitated by the Customer Care Managers. Three sessions are delivered each year for approximately 45 staff.
- ‘Complaints Made Easy’ – on site training for operational staff tailored and delivered by the Customer Care Teams. The majority of operational teams have received this training and arrangements have been made to visit the remaining teams in the next few months.

Organisational Issues

11. (1) As a result of the continuing increase in volume and complexity of complaints and enquiries, the organisation needs to consider the following issues:-

- a) Increased complaint activity, particularly in respect of complex cases.
- b) Increased LGO activity and the costs of these cases, in terms of direct financial compensation, reputation and adverse publicity for the organisation.
- c) Poor quality responses could result in more cases being referred to the LGO resulting in upheld complaints and the LGO recommending financial compensation or issuing a Report. This would have a direct financial and reputational impact on the Council.
- d) Operational staff are not consistently meeting current time frames that have been agreed with the complainant. This is a reflection of the increased volume and complexity of complaints and could leave the organisation at risk from a verdict of maladministration from the Local Government Ombudsman (LGO).

(2) These issues will need to be considered and addressed in the current proposals to establish a single complaints team across KCC.

Conclusion

12. (1) During the reporting period, the directorate has continued to operate a robust and effective complaints procedure to meet its obligations under the statutory regulations.

(2) The data from complaints is one mechanism available to influence, inform and improve services. People who lodge a complaint should feel assured that the directorate uses this feedback to implement service developments, as necessary, to benefit both current and future service users.

Recommendations

13. (1) Members are asked to NOTE and COMMENT on the contents of this report.

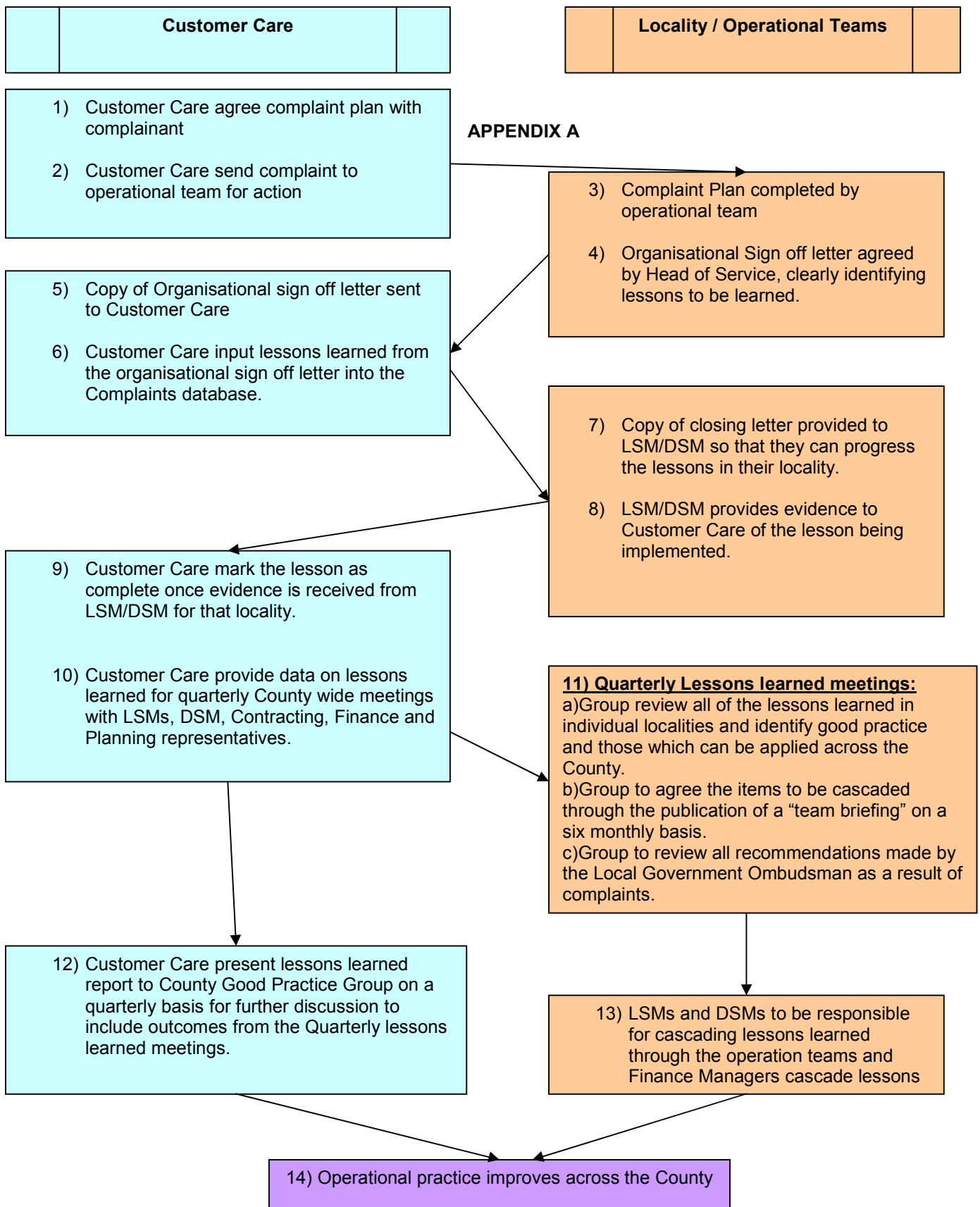
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Background documents: None

Cascading lessons learned from complaints





Team Briefing: Learning Lessons from Complaints

Communication

Confirm things in writing.
Inform people of delays.

Advise people of
changes—particularly
about finances.



The timeframe for
responding to complaints
is usually 10 working days

Pro-actively
manage
expectations

Record Keeping

Make notes of your
telephone discussions.

If its not recorded, it didn't
happen.

Clear signatures and dates.

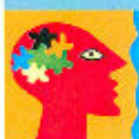
Remember: An email is
considered a formal
method of
communication.

Think about what you
are forwarding
on—what is
the whole
email trail?



Think Mental Capacity Act:

- Does a representative
have Power of Attorney
that is registered with the
Court of Protection?
- Have you got a
copy on file?



If you are **named in a
complaint** the investigating
manager will discuss it with you,
your line manager will complete a
staff feedback form with you in
supervision—which should
include looking at a copy of the
final response

Investigating
Managers must keep
a formal record of
interviews had during
the complaint process

If there is a complaint—please refer to Customer
Care:

CustomerCareEK@kent.gov.uk

or 0300 333 5920

CustomerCareWK@kent.gov.uk

Or 0300 333 5903

