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To: Adult Social Services Policy Overview Committee –  
17 November 2009

Subject: **ADULT SOCIAL SERVICES ANNUAL COMPLAINTS REPORT**

Classification: Unrestricted

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Summary: This report provides Members with information about the operation of the Adult Social Services complaints and representations procedure between 1 April 2008 and 31 March 2009.

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## **1 Introduction**

(1) It is a statutory requirement within the following items of legislation for local authorities to have in place a complaints and representations procedure for Adult Social Services:

- NHS & Community Care Act 1990 (section 50)
- Health & Social Care Act 2000
- Local Government Act 2000
- Local Authorities Social Services Complaint (England) Regulations 2006 (including associated Guidance; Learning From Complaints – Social Services Complaints Procedure for Adults)

(2) 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.

(3) The annual report detailing complaints and representations activity across adult social services is presented to Members each year. This Annual Report provides Members with information about the operation of the Adult Social Services complaints procedure between 1 April 2008 and 31 March 2009.

(4) The report provides a brief overview of the complaints procedure, including information on the number and type of complaints received by the Directorate. It also includes some examples of the lessons learned from complaints and more importantly, how these are used to inform, influence and improve service design and delivery.

(5) The report also updates Members on the key changes to the statutory complaints process outlined in the Department of Health's, "Making Experiences Count" consultation and the subsequent guidance; "Listening, Responding, Improving", which came into effect on 1 April 2009. In addition, a brief summary of the impact of the new process during the first few months of its implementation is included in the report.

## **2 The complaints procedure**

### **2.1 Key Principles**

- People who complain should have their complaints resolved swiftly, and wherever possible, by the people who provide the services locally.
- The Directorate remains receptive and responsive to complaints with the aim of encouraging a listening and learning culture where the intelligence gathered from complaints is fed into services, resulting in continuous improvements. This is a key area and both the Care Quality Commission and future Comprehensive Area Assessments will focus on this issue.

### **2.2 What is a complaint?**

The Department of Health guidance defines a complaint as:

*“...an expression of dissatisfaction or disquiet about the actions, decisions or apparent failings of a local authority’s adult social services provision which requires a response. The intention here is not to be too rigid in the way that complaints are defined.*

*If it is possible to resolve the matter immediately, there is no need to engage the complaints procedure”.* ①

### **2.3 Who can make a complaint?**

The Department of Health guidance states that:

*“ A person is eligible to make a complaint where the local authority has a power or duty to provide, or to secure the provision of, a service for him, and his need or possible need for such a service has (by whatever means) come to the attention of the local authority. This also applies to a person acting on behalf of someone else”.* ①

① Learning from Complaints - Department of Health publication - 2006

### **2.4 The Process (up to 31 March 2009)**

#### **i. Stage One – Local Resolution**

The first stage is seen as problem solving with the emphasis on resolving the complaint quickly and at, or as close to, the point of service delivery as possible. Most complaints are resolved locally within the service area and resolution should take place within a maximum 20 working days. If a complainant was not satisfied with the outcome of their complaint at this stage or they had not received a response within the target timescales, they could request that their complaint proceed to the next stage of the process.

#### **ii. Stage Two – Investigation**

At this stage of the process, a formal investigation of the complaint is initiated with a report being produced by the investigating officer appointed to the case. A senior officer would review the report, together with any recommendations and would look to offer further remedies to the complainant, if appropriate. The timescale for dealing with this stage was 25 working days up to a maximum of 65 working days, for more complex cases.

### **iii. Stage Three – Review Panel**

Similarly, if the complainant remained dissatisfied with the outcome of Stage Two, there was the option to request that a Complaints Review Panel be convened. The Panel consists of a Chair and two other people. The Chair and one of the panellists are independent people, with an elected Member as the third panellist. The responsibility of the Panel was to review the administration of the complaint, rather than reinvestigate the complaint, and make any recommendations to the Managing Director, who considered these before responding to the complainant.

Although this stage is the end of the local authority complaints procedure, complainants could contact the Local Government Ombudsman if they remained dissatisfied. The Ombudsman may decide to investigate complaints if it is considered that there may be a case of maladministration.

## **2.5 Recording complaints**

All complaints, comments and compliments are recorded on a specialised database; RESPOND. This enables the customer care teams to record details of each complaint, including the complainant and service user, the separate issues involved in the complaint and also allows the customer care teams to monitor the progress of the complaint against statutory and local deadlines. The system records statutory and non-statutory complaints, MP and Member enquiries, as well as compliments. Area teams produce quarterly reports, which are analysed for trends and other key areas of learning and development.

## **2.6 New complaints procedures effective from 1 April 2009**

(1) The introduction of a single complaints process across health and social care reflects the review of the existing complaints processes during the past few years. The Statutory Instrument, “The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009”, was issued on 27 February 2009. The aim of the new arrangements is to create a consistent approach to complaints handling across health and social care.

(2) The key change in responsibilities is that there will be a one stage independent review process, which for social care, will be conducted by the Local Government Ombudsman. The current three stage process consisting of, Local Resolution, Investigation and Review Panel are replaced by the new procedures which were implemented with effect from 1 April 2009. Transitional arrangements are in place for any complaints falling within the procedure to 31 March 2009 (old process), which were not resolved prior to the implementation of the new process. This means that complaints falling within this category can still proceed through to a Review Panel if applicable.

(3) One significant change within the new procedures is that the response to the complaint should be proportionate to the nature of the complaint. For instance, Kent Adult Social Services (KASS) will not be obliged to conduct an offline investigation if the issues within the complaint do not merit it. Under the previous procedure, a complainant had the right to access all three stages of the process even if the desired outcome specified by the complainant has been achieved at stage one. The complainant will have recourse to the Local Government Ombudsman and it is essential that the complaints file reflects the reasons why the final response is deemed, ‘proportionate’.

## 2.7 Key Principles of the new system:

- Health and social care organisations should take a more flexible approach towards handling individual complaints, which focuses on the needs and wishes of the people involved. The new regulations seek to reach a speedy resolution and facilitate a co-ordinated approach to cross-boundary complaints.
- A simplified process that makes it easier for people to share their experiences and for the organisation involved to respond accordingly. The response to any complaint should be proportionate to the issue/s raised.
- Make sure that people's experiences help to improve services.

(1) The new complaints approach is structured around three main components: listening, responding and improving.

**Listening** - The initial contact with someone who has concerns or wishes to complain about any aspect of a service is crucial so that the outcome is more likely to be to the satisfaction of everyone involved. It is important to:

- make sure the issues are clearly understood
- find out what the complainant wants to happen as a result
- obtain the right information to assess the seriousness of a complaint
- agree a plan and timescale at the outset
- maintain regular communication
- act as quickly as possible

**Responding** - By correctly assessing the seriousness of a complaint, deciding on the most appropriate response becomes more straightforward. The new approach focuses on ensuring that staff dealing with a complaint are equipped to:

- clearly gauge the impact of the complaint on all the parties involved
- establish a clear, appropriate plan of action, and
- provide the person making the complaint with relevant support and advice.

**Improving** - Complaints provide a vital source of insight about peoples' experiences of health and social care services, and how those services can improve for the benefit of everyone.

(2) Under the new process, cross boundary complaints are to be dealt with via a single, co-ordinated response with the nominated lead organisation ensuring that this is achieved. To optimise joint working arrangements between Complaints Managers in Kent and Medway, a joint protocol has been developed to ensure these obligations are met. KASS has already signed up to the protocol, which is attached as Appendix 1. The Kent and Medway Complaints Managers Network is in the process of gaining organisational sign up for all health and social care partners in the area.

## 2.8 Recording of complaints under the new process

(1) As the new procedure is a one-stage process, as opposed to the previous three stage process, future reports will reflect this change. Quarterly reports will be produced by area customer care teams and presented to the respective Area Management Team's.

(2) There is a statutory requirement for complaints to be acknowledged within 3 working days. Each complaint will have a response date agreed with the complainant and it is anticipated that this will be significantly lower than the previous 20 - 65 working day standard.

(3) The database that is currently used by customer care has been amended to take account of the new process. Regular monitoring of data is undertaken by HQ Customer Care to ensure consistency and quality of data input and reporting.

## **2.9 Publicising the complaints process**

(1) A requirement under the new regulations is that KASS must publicise the complaints procedures. To ensure that the complaints system is accessible, all new service users are provided with a copy of our complaints leaflet, "Comments, Complaints and Compliments", which has been updated to reflect the new process. Work is currently underway to ensure this is available in various formats, including "Easy Read", Braille, large print, audio tape and other community languages. People can currently access complaints information via the internet or make a request for information to be sent to them. All KASS local offices and Gateways hold the complaints leaflet.

## **2.10 Accountability**

(1) Under the regulations, accountability for "organisational sign off" rests with the Managing Director, but may be delegated to a designated senior manager. The Senior Management Team (SMT) has agreed that this responsibility will be delegated to the relevant Head of Service for each locality/function. In cases where a full investigation is undertaken or where a complaint has MP or Member involvement, the final response letter will be signed off by the relevant Director of Commissioning and Provision.

(2) The final response letter to the complainant must include information on whether the complaint was upheld (well-founded), partially upheld or not upheld. This analysis is to be included in future annual reports, the first one being for the period 1 April 2009 to 31 March 2010.

## **2.11 Staff Training**

(1) HQ and Area briefings were circulated to staff to inform them of the new process and how this would be implemented, including the practicalities, within each area.

(2) A presentation on complaints and customer care is delivered to all new KASS staff as part of their Induction Day training. Additional core training covering complaints handling and customer care is also offered to new and existing staff on a self-referral basis. Individual team training is also provided by area teams as required. A rolling programme of customer care training is to be delivered by customer care teams to ensure that this key area is highlighted and reiterated to all staff every 2-3 years. Customer care teams will utilise the "Complaints Made Easy" tool to assist with the delivery of this training, which will coincide with existing team meetings to minimise disruption to teams and maximise staff attendance. It is anticipated that this training will commence in early 2010.

(3) To ensure that there are sufficient staff available to undertake complaints investigations, the training department have agreed to fund training which is facilitated by the Local Government Ombudsman on "Effective Complaints Handling". Staff, at Team Leader level and above, have been targeted for this training in order to meet the anticipated increased demand for investigations under the new process. The first tranche of training commenced in September 2009.

## **2.12 Impact of the new process as at 30 September 2009**

(1) Since its inception, customer care teams have noted that there has been a significant increase in the time spent dealing with complaints under the new process. Establishing personal contact with the complainant at the outset, including gaining agreement to the complaint's plan, combined with the subsequent early contact with the appropriate service representative to discuss the way forward, has been more time consuming than was the case under the previous process. Adopting this more personal approach to each complaint will continue to impact upon resources. However, as one of the key principles is for frontline staff to resolve complaints about the services they provide, this impact will likely be transferred to operational staff in the future. Customer care staff will obviously be available to assist with complaints resolution, but the emphasis on resolving a complaint will rest with those staff delivering/providing the relevant service.

(2) It has been pleasing to receive comments from complainants who welcome the telephone contact they receive from customer care at the outset of their complaint. People have stated that not only do they feel they are being listened to, but this initial method of contact has meant they also believe that their complaint is being taken seriously.

(3) To date, the customer care teams have not been made aware of any referrals to the Local Government Ombudsman, but it is too early to speculate on whether this is as a result of greater satisfaction from the complainant or that KASS has not yet been notified of any such referrals.

## **3 The Number of Complaints and Compliments Received**

(1) In 2008/09, 359 complaints were received; this represents a 3.75% increase from the previous year when 346 complaints were recorded. Of these, 297 were logged as statutory complaints and in comparison to those reported the previous year, 295, this reflects a less than 1% increase in the number received. 463 merits (or letters of compliment) were received during the year, showing a slight increase on the previous year.

(2) The number of complaints and merits needs to be considered in context to the number of people accessing services. In 2008/09, there were over 31, 300 referrals to Adult Social Services, there were also over 34, 400 people in receipt of services in March 2009. When comparing the number of people accessing services with the number of complaints received, it is apparent that complaints represent a small proportion of those people who have contact with KASS. However, it is important that the organisation learns from those complaints that are received.

(3) Of the 359 complaints received, 297 were logged as statutory complaints under the NHS and Community Care Act. The remaining 62 complaints were from “non qualifying individuals” (not service users or carers); these complaints do not fall within the statutory process, but are responded to nonetheless.

(4) Of the 297 statutory complaints received in 2008/09, 9 were investigated under Stage Two of the complaints procedure. There were no Complaints Review Panels held during this reporting period.

(5) It is easy when analysing complaints to assume that an increase or decrease in the number of complaints received reflects a change in the standard of service provided. However, it is not as straightforward as this. An overall increase in complaints could indicate that the Directorate welcomes complaints and views them as a positive tool for improving services and also that people are well informed about how to make a complaint. What is more important is to be able to identify where there is an increase in the number of complaints received for a particular service, as this would require further investigation. As many of our service users are vulnerable, it is imperative that they feel able to express any dissatisfaction they have with the service(s) they received, in the knowledge that they will be treated fairly and supported within the complaints process.

(6) Complaints are not the only method of receiving feedback on services. Within the Directorate there is an extensive range of forums and involvement processes which enable people to express their views. In turn, this information is fed into the appropriate review/development/delivery processes for services and is an integral part of the planning and commissioning of services.

(7) Further details about the number of complaints and representations received are provided in Appendix 2, attached to this report.

#### **4 Services for Adults with a Disability**

(1) During the period, 44 complaints representing 15% of the total number of statutory complaints received, related to learning disability. This total does not indicate any significant fluctuations in comparison to the previous year's figures. Issues falling within this category included care management, day care and residential.

(2) Those complaints about services for adults with physical disabilities total 8 or 2.7% of the total number of complaints logged. Care management account for the majority of these.

(3) The common themes falling within these areas of complaint include people who are dissatisfied with either the outcome of their assessment where they feel there is insufficient service provision, the quality of care or poor timekeeping.

#### **5 Services for Older People**

(1) In 2008/09, there were 133 complaints about services for older people. This accounts for 45% of the total number of statutory complaints received. Each individual complaint is broken down into the issues relating to that complaint, as within customer care, the aim is to identify any trends that need addressing. In broad terms the numbers of complaints received within the categories of older people services do not show significant fluctuations from those received the previous year.

(2) When analysing the residential care category, it is noted that the number of issues within an individual complaint are increasing, although the reverse is true for domiciliary complaints. This has been apparent for the past two years and customer care will be monitoring this regularly to establish whether there are any patterns emerging.

## **6 Occupational Therapy and Sensory Loss**

(1) In total, 29 complaints (9.7%) were received about the O.T Bureau, (1 of which related to Deaf Services). Again, this is broadly in line with the figures received the previous year. The number of complaints relating to the Blue Badge scheme indicates an upward trend as a result of tighter assessment criteria for people applying or renewing within the scheme.

(2) Those complaints specifically relating to OT typically arise as a result of delays in providing equipment or completion of adaptations following an assessment. This is an ongoing issue as funding for this work is obtained via the Disabled Facilities Grants (available from Borough Councils).

## **7 Other Direct Provision Complaints**

(1) In total 30 complaints (10%) were received about other Direct Provision services (Specialist Services). The services that fall within this category include the in-house provision for learning disabilities and in-house registered care centres for older people. When comparing the figures against the previous year, there are not any significant increases/decreases to report. Figures are once again broadly in line with those recorded for 2007/08. The typical reasons for people complaining include poor communication and/or concerns about the quality of care.

## **8 Complaints to the Local Government Ombudsman**

(1) In 2008/09, 3 people contacted the Ombudsman's office to complain about Kent Adult Social Services. One of these referrals was not upheld and 2 were deemed premature and therefore outside the jurisdiction of the Ombudsman. These complaints were referred to the adult social services complaints procedure.

## **9 Learning the Lessons from Complaints**

(1) It is imperative that the Directorate uses complaints to inform the changes that need to be addressed to continuously improve the quality of services. Excellent customer service is an integral component to achieving this. Complaints are viewed as a positive tool for improving services as opposed to a negative process that seeks to apportion blame; this culture has been and continues to be encouraged throughout the Directorate. This viewpoint is reinforced during training, where staff receive training and support to equip them with the relevant skills to effectively resolve and respond to complaints.

(2) Not only does the Directorate have a statutory duty to respond to complaints, but the emphasis is on ensuring that people who complain have their concerns resolved, swiftly and, wherever possible, by the people who provide the service locally. A key principle of an excellent complaints process is ensuring people have the opportunity and confidence to share their experiences, both good and bad.

(3) In context of the number of people that access services, the number of complaints received is relatively small. It is to be expected that there will be occasions

when the level of service that someone receives falls short of their expectations. However, when this happens, a swift, but focussed resolution can often be achieved to the satisfaction of all concerned.

(4) Area customer care teams provide information on complaints, including themes and trends, to operational managers on a regular basis to enable service improvements to be introduced.

(5) Training of staff remains a priority for customer care teams and paragraph 2.11 details both the training currently available and that planned for the future.

(6) The following examples illustrate the lessons learned as a direct result of complaints and the positive impact this has on the respective services:

i. As a result of a complaint regarding the lack of accurate personal information at a day centre whereby relatives could not be contacted in an emergency; the manager discussed with staff the importance of ensuring this type of data was kept up to date. In addition, staff were advised of the need to keep relatives informed of any changes in circumstance. This will impact upon all current and future service users within the day centre.

ii. Several separate complaints highlighted the issue of poor or inadequate communication. As a result, the relevant district managers addressed the issues of poor tone and manner of communication with staff through supervision. In another example, the district manager reviewed the process for logging calls to prevent the poor response to such calls from recurring. To ensure there is continuity of service provision when service users transfer between districts, increased communication between the relevant teams has been implemented, following a complaint, removing the risk of a potential lapse in service.

## **10 Other Developments**

(1) **Adult Protection** – There are occasions when a complaint is received, but it appears there are issues relating to adult protection. In these cases, adult protection procedures take precedence over the Directorate's complaints procedures. Therefore the complaint may be held in abeyance, depending on the circumstances of the case, until such time as the adult protection case has been concluded. A briefing note and accompanying flow chart detailing the interface between Safeguarding and the Complaints process, has been drafted and agreed with the Customer Care Managers, SVA co-ordinators and the Safeguarding Adults Policy and Standards Manager. This is attached as Appendix 3.

(2) **Kent Health Watch** – The service was launched in October 2008 having been established by Kent County Council in partnership with the NHS to help local residents express their views about all health and social care services in Kent. This service was developed to enhance, rather than replace, the existing feedback mechanisms currently available within health and social care, with the aim of improving services.

(3) The service is available 24 hours a day, seven days a week, by telephone, textphone and email. It operates like a Directory Enquiry service, signposting callers to the right contact within health or social care should they wish to register compliments, comments, complaints or concerns.

(4) Data collected by Kent Health Watch - either by telephone or email – is recorded and reported back to the relevant NHS organisations and KASS. To date there have not been any calls relating to KASS that could not be dealt with under the existing service provided by the Contact Centre.

(5) **Adult Social Care Self-Funding** – Under the current process, effective from 1 April 2009, people who self fund their adult social care either themselves or by way of a direct payment do not fall within the statutory process. This omission in provision is being rectified within The Health Bill 2009, which proposes that the Local Government Ombudsman extend its jurisdiction to cover an independent complaints handling role in respect of self funded adult social care. The new service is expected to commence in 2010.

(6) **Local Involvement Network (LINKs)** – The Local Involvement Networks were introduced as one of the initiatives within The Local Government and Public Health Act 2007, with the aim of providing greater opportunities for people to be able to influence decision making. The LINK enables local people and groups to have a voice in the monitoring and commissioning of health and social care services. Although the LINK will not deal with individual complaints, if a number of concerns were raised about a particular service, the LINK may take further action to investigate the issue. The overall aspiration is to embed a culture of engagement and empowerment. The Kent LINK was launched in December 2008. (Further information on LINKs, including its functions is detailed in the consultation report, which is on the agenda for 17<sup>th</sup> November.)

## 11 Conclusion

(1) The Directorate has a committed approach to continuous improvement and development of services. Complaints are one mechanism for providing valuable feedback from people who have actual day to day experience of services.

(2) During 2008/09 the Directorate has continued to operate a robust and effective complaints procedure in line with its statutory requirements.

## 12 Recommendations

Members are asked to **NOTE** and **COMMENT** on the contents of this report.

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*Background documents:* None