

From: Graham Gibbens, Cabinet Member for Adult Social Care and Public Health
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To: Adult Social Care Cabinet Committee – 27 September 2018

Subject: **ADULT SOCIAL CARE ANNUAL COMPLAINTS REPORT (2017-2018)**

Classification: Unrestricted

Previous Pathway of Paper: Adult Social Care and Health Directorate Management Team – 22 August 2018

Future Pathway of Paper: None

Electoral Division: All

Summary: This report provides Members with information about the operation of the Adult Social Care Complaints and Representations Procedure between 1 April 2017 and 31 March 2018.

Recommendation: The Adult Social Care and Health Cabinet Committee is asked to **CONSIDER** and **COMMENT ON** the content of this report

1. Introduction

1.1 This report is the Annual Report for Adult Social Care Complaints and provides an overview of the operation of the procedure in 2017/18. It includes summary data on the 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.

2. Policy Context and Procedures

2.1 The “Local Authority Social Services and National Health Service Complaints (England) Regulations 2009” placed a duty on Local Authorities and NHS organisations to have arrangements in place for dealing with complaints. One of the reasons for the Regulations was to bring about greater consistency in how health and social care complaints are dealt with. Some aspects of the Regulations were quite prescriptive, for example setting out who can make complaints:

- “A person who receives or has received services from a responsible body;
or a person who is affected or likely to be affected, by the action,

omission or decision of the responsible body which is the subject of the complaint”.

- 2.2 The Regulations were also prescriptive in terms of what can be complained about: including Local Authority Social Services functions and any function discharged under specific partnership arrangements between the Local Authority and an NHS body.
- 2.3 The Regulations set out a duty to cooperate where there are joint complaints that include an element of health and social care. They also set out some constraints on the procedure – for example setting a 12-month limit of complaints except in certain circumstances.
- 2.4 Associated with the Regulations, guidance was issued which outlined the key principles of the procedure. The three main principles were:
 - **Listening** – establishing the facts and the required outcome;
 - **Responding** – investigate and make a reasoned decision based on the facts/information and
 - **Improving** – using complaints data to improve services and influence/inform the commissioning and business planning process.
- 2.5 The Regulations and the guidance underpin the Council’s Adult Social Care Complaints Procedures. The general approach taken is to be receptive and open to complaints and to try to resolve the complaint but also to learn any lessons where the service has not been to an acceptable standard.
- 2.5 Wherever possible complaints that involve health and social care are dealt with via a single co-ordinated response. To facilitate this, a joint protocol was developed by the Health and Social Care Complaints Managers in KCC and Medway Council.
- 2.6 For Adult Social Care the complaint response needs to be proportionate to the issues raised. The only timescale in the process relates to the acknowledgment of the complaint which is within three days from receipt. Thereafter the response time is agreed with the complainant and reflects the circumstances and complexity of the complaint. In most cases a 20-working day time scale is agreed however there are cases, such as when an independent investigator is completing the investigation into the complaint or when a joint response with another agency is planned, when a longer time frame is usually agreed.
- 2.7 Complainants are informed that if they remain dissatisfied after the complaint has been considered and responded to by the Local Authority, then they are entitled to contact the Local Government Ombudsman. The Ombudsman provides the final stage in the process.

2.8 The Regulations require Local Authorities to produce an Annual Report with information about the number and type of complaints received for the 12 months ending on 31 March.

2.9 In addition to complying with the Regulations, the Complaints Team also seeks to deliver best practice in line with Local Government Ombudsman guidance.

3. Total Representations received by Adult Social Care

3.1 Information about the number and type of complaints received in 2017/18 is shown in Appendix 1.

3.2 The figures show a slight decrease in the number of complaints for the second year in a row with 637 complaints received in 2017/18 compared with 649 the previous year. The number of complaints however remains quite high compared to the numbers that were being received several years ago (538 in 2014/15 and 417 in 2013/14). This reflects the complexity of demand and pressures on services.

3.3 The 637 statutory complaints received also needs to be seen in the context of the large number of people accessing the service. There were 34,716 open adult social care cases at the start of 2017-18 and a further 29,457 new referrals were received during the year. The percentage of people who made a complaint was therefore less than one per cent.

3.4 There was also a decrease in the number of Enquiries. Where correspondence is received from a Member of Parliament or Local Member, on behalf of a constituent or about an aspect of the service, then it is logged as an Enquiry. Enquiries can also include instances where someone wishes to raise an issue without making a formal complaint. In 2017/18, there were 276 Enquiries compared with 362 the previous year.

3.5 In 2017/18, 507 compliments (or merits) were logged. This was an increase on the previous when 430 were recorded. The compliments provide useful feedback where people have written to Adult Social Care with positive comments about their experience of using the service. Several examples are provided later in the report.

4. Performance against timeframes

4.1 The average response time for statutory complaints is set within a complaint plan time frame of 20 working days. Complex cases that require either an off-line or external investigation or a joint response with health services are identified at the commencement of the complaint and a longer timeframe is generally negotiated with the complainant.

4.2 72% of complaints were responded to within the 20-day timescale agreed with the complainant which is a slight improvement on the previous year when 68% were responded to in 20 working days. Meeting the timescales can be challenging as

managers and practitioners balance the competing demands of complaints investigation with the other demands on their time. Nevertheless, the Directorate is monitoring response times closely and provides updates to complainants where the response is likely to be significantly overdue. A weekly report is also issued to remind staff of any complaints that are pending or overdue. Holding letters are sent to complainants if a response is delayed.

5. Themes identified arising from complaints

- 5.1 In October 2017, the Complaints Team started using a new council wide Customer Feedback database. A number of the fields on the database were different to the previous database which make it difficult to make direct comparisons over time regarding the detailed subject matter of the complaints. Some complaints might also raise more than one issue – for example if someone complains about a delay and the outcome of a decision. It is however possible to draw out some of the key themes from complaints.
- 5.2 24% of complaints related to communication with a service user or their family. Examples included the need to communicate the outcomes of meetings more promptly to service users or their family. Another example was the need to ensure any communication sent to members of staff who have taken leave unexpectedly is addressed in their absence. The change to the Lifespan Pathway Service in 2017/18 meant that some service users had a change of key worker and for some service users there was a delay in being notified who their new keyworker would be.
- 5.3 18% of complaints relate to disputed decisions. Examples included where people considered they required more support than had been agreed or where the support has been decreased following a review of care needs. In some cases, family members or representatives of service users disagreed with the outcome of an assessment or disagreed with the contents of a Care and Support Plan.
- 5.4 16% of complaints relate to financial processes and charging. This included complaints where people complained about being charged or the amount being charged. Examples included where individuals considered the charging arrangements had not been clearly explained to them or they had received a higher than expected invoice due to a delay in the administration process.
- 5.5 Other themes included complaints about service provision for example a lack of a local provider or where the contracted care provider was not able to deliver a service at a time the service user would want.
- 5.6 11% of complaints related to the perceived behaviour or attitude of the member of staff the service user was in contact with. Where a complaint investigation has found the individual member of staff was at fault or where their practice was not to the required standard, then this is addressed by the manager through supervision with the member of staff.

6. The Outcome of Complaints

6.1 The Local Authority is required to report on the number of complaints received that are “well-founded”. In Kent these are logged as “upheld complaints”. This is not always clear as the nature and contents of complaints can vary considerably, and many responses provide an explanation where there might be a misunderstanding or a lack of clarity. Nevertheless 31% of complaints were upheld; 28% were partially upheld and 31% were not upheld. Approximately 5% were withdrawn and a further 5% were dealt with in another way – for example resolved through a meeting or following initial consideration were passed to another process, such as safeguarding. The number of upheld and partially upheld complaints is a reflection on the open and transparent approach to complaints and the willingness to learn from customer feedback.

7. Learning the Lessons

7.1 Receiving a complaint provides an opportunity to resolve an issue where the service might not have been to the standard required or expected. In addition, complaints and enquiries, along with other customer feedback, provides valuable insights that can be used to improve service performance. A complaints procedure is only as good as the culture in which it operates so it is important to maintain an open and learning culture that is receptive to feedback from customers.

7.2 Complaints reports are presented to the Directorate and Divisional Management Teams and to the Quality and Good Practice Group meetings. The Quality and Good Practice Group meetings are also used to reflect on issues arising from complaints and are an opportunity to identify lessons to be learnt. Sometimes the feedback will be reminders to staff of practice issues and sometimes the lessons will lead to more tangible changes. Operational teams identify representatives to attend the meetings and feedback issues and lessons at a local level.

7.3 Some of the lessons/issues arising in 2017/18 and discussed at the Quality and Good Practice Group included:

- The need to ensure any change of circumstances for the service user is logged in a timely way. Delays in the information being recorded on the system can cause delays in the person being charged the correct amount for the care they receive or a delay in a financial assessment being completed. At the Quality and Good Group Practice meetings practitioners were reminded of the need for any changes to the case records to be made promptly.
- Some of the complaints received related to a lack of communication relating to safeguarding where families did not feel they were being kept sufficiently informed. The national “Making Safeguarding Personal” initiative has helped to address this, along with the provision of relevant information leaflets. In addition, a major initiative in the

Directorate to reduce the timescales for safeguarding enquiries has enabled people to be informed of outcomes more promptly. Feedback from complaints informed the production of the additional factsheets that are available to the public who wish to receive more information on the safeguarding process. These are also available in Easy Read versions and complement the “Safeguarding What Happens” leaflet.

- Following a reorganisation of a service, it was apparent that some of the practitioners were new to Adult Social Care and did not have a comprehensive understanding of the Adult Social Care financial assessment and charging arrangements. To address this, workshops were provided for the staff group.
- A complaint about one of the in-house residential care units highlighted the need for staff to “escalate” issues to a senior manager if they have encountered difficulties in engaging a practitioner from a partner organisation, (in the case giving rise to the complaint there was a problem engaging a District Nurse). A workshop was held with relevant staff to ensure lessons were learned from the complaint.
- It was apparent from feedback that some staff were finding it difficult to convey difficult messages to service users or their representatives particularly about contentious issues. This was covered in “Key Concepts” presentations and workshops with practitioners.
- In the Quality and Good Practice meetings there has been a reminder of the need to ensure information is provided to the service user/family where there is likely to be a charge for services. Linked to this is the need to ensure there is clarity regarding who is managing the individual’s finance if they are unable to manage their own finances.
- Following the sad death of a service user with learning disability, there was a delay in other organisations, such as the Housing Authority and Department of Work and Pensions, being notified. A checklist was therefore produced for staff for future reference should a similar situation arise.
- A complaint was received after a person’s case file was stolen from a practitioner’s car. A communication was sent out to remind staff of the need to safeguard personal information.
- A complaint was received about a delay in arrangements being put in place where an individual’s assets had depleted, and they were requesting support to meet the care home fees. Further work is planned to determine if the processes can be streamlined to enable the assessments and decisions to be made more promptly.

- Feedback was received about the Adult Social Care information on the website and this led to a change to some of the information about the Enablement Service and a change to the Blue Badge Misuse Reporting Form.

7.4 Lessons are also learned from the investigation of complaints. Following independent or “off line” investigations, there are adjudication meetings where actions are agreed and the outcomes and any lessons from the complaints are shared more widely as appropriate. As part of the complaint conclusion meetings with Senior Managers are often arranged with complainants following independent investigations to discuss the findings and recommendations.

7.5 The outcomes from complaints can also lead to training or specific actions for individuals or teams. One example was a complaint where an individual considered that their care assessment had not fully reflected the fact that they are Transgender. The assessor had not referred to this in the assessment document and therefore was not considering all the specific needs of that person. Following the complaint, a workshop was provided for the team to reflect on assessment and support for people who are Transgender and to gain a better understanding of all the current issues affecting the clients who are transitioning,

7.6 Three training sessions were delivered to teams during the period to remind staff of the complaints procedure and how to investigate and respond to complaints.

8. External investigations

8.1 The responses to complaints need to be proportionate and an external, independent investigator is usually appointed when the complaint issues are particularly complex or where communication has broken down or confidence in the organisation has been lost. Where an independent investigator has been appointed it provides some reassurance to the complainant that there is independent consideration of the complaint.

8.2 During the period, four independent investigations were completed. The total cost of these investigations was £8,456.40

9. Financial

9.1 In 2017/18, £7,825 was paid in financial settlements. This included cases where the Local Government Ombudsman had made a recommendation for a financial settlement. A financial settlement is when an amount of money is offered to provide redress or as a gesture of goodwill to recognise the anxiety and the time and trouble to pursue a complaint. Most of the nine settlements were for under £1,000 but one settlement was for £4,106.

9.2 During the same time frame 38 financial adjustments were made to accounts totalling £38,501. An example of a financial adjustment is when an error has occurred with the charging process and has been rectified or where part of a debt has been written off as part of a complaint resolution.

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

10.1 The LGO contacted KCC Adult Social Care regarding 42 cases in 2017/18. This includes cases that were carried forward from the previous year and settled during the reporting year. In most of the cases the LGO did not find fault with the Local Authority and deemed no further action was required.

10.2 There were eleven cases where the Ombudsman found the Council was at fault. Nine of these cases related to complaints that had arisen in previous years. The LGO's "Final Decisions" however were made in 2017/18 and so they were recorded as 2017/18 complaints for LGO reporting purposes.

10.3 The reasons giving rise to the complaints where fault was found varied however they included complaints about insufficient levels of support, delays in providing information, and communication about charging.

11. Compliments (or merits)

11.1 The Directorate continues to log compliments or merits, with 507 received in 2017/18. These also provide useful feedback and serve as a reminder of the many people who are very satisfied with the service they have received.

11.2 A few examples are provided below:

- "On behalf of my family. I should like to thank you all most sincerely for all your help, kindness and patience in looking after my husband"
- "S is very grateful for all the support she has received. Each and every support worker arrived with a smile on their faces and has given time and confidence to S".
- "I would like to take this opportunity to mention how we have appreciated the amazing care and help given to us by your team of carers".
- "A said she would miss the girls as it was company for her, but they are needed elsewhere to work their magic".
- "Thank you for helping to give me more independence".

- “Just a note to say thanks so much for all the care you gave D. when he was with you for two weeks. We were very grateful for the kindness you showed him and to me. It was much appreciated at a worrying time”.
- “Thank you for the equipment -its brilliant. The service was great, very professional”.
- “The Care Manager has been so supportive... I appreciate all her hard work. The last two months have been stressful and frustrating, but the Care Manager has very high standards. She always responds as soon as possible and explains the situation as much as she can”.
- “Mrs W spoke very highly of the team stating that the ASC Team is a God Send”.
- “I would very much like your BOSS to see this e-mail. This is a personal thank you to Tracey regards looking after my Auntie. Tracey has given a FIRST-CLASS service. She has worked above and beyond, showing interest and care to someone that needed extra help. A real credit in my view to your company”,
- “Please pass on my thanks to your fitter (technician) for the exceptional service of fitting three rails. The client is as happy as Larry and I am very impressed how quickly this job was completed! Well done!”

12. Complaints Operations

- 12.1 The Adult Social Care Complaints Team receives, records and administers the complaints, enquiries and compliments for the Directorate. It also assists with complaints responses including responses to the Ombudsman and some of the more complex complaints. There were some changes in personnel during the year which reduced the team capacity for periods of time nevertheless the team endeavoured to sustain the high quantity and quality of work.
- 12.2 In April 2017, the Children’s Complaints Team transferred back to Children’s Services to enable close liaison with Specialist Children’s Services and other Children and Young People Services.
- 12.3 A further change in 2017 was the introduction of KCC customer feedback database. This required some adjustment to configure the new database as the previous system was long established and tailored to meet the Directorate requirements.
- 12.4 The regulations require the complaints procedures to be publicised. The, “Have your Say” complaints leaflet is made available in hard copy and information is

provided on the KCC website. An easy-read version of the complaints booklet is also available.

12.5 The Adult Social Care Customer Care and Operations Manager Chairs the Kent and Medway Complaints Officers Network meetings which involve the Complaints Managers for health and social care services in the county. During the year the meetings have proved productive in promoting joint working. The group has reviewed and reissued the protocols for handling inter-agency complaints. The complaints team has also worked closely with the Kent and Medway NHS Partnership Trust (KMPT) Patient Advice and Liaison Service to ensure effective joint working on complaints about secondary mental health services.

12.6 A focus group was held with some service users to obtain feedback on complaints and the information provided to explain the complaints procedure. This led to some changes to the Easy Read version of the complaints leaflet.

13. Actions Planned in 2018/19

13.1 The Complaints Team will need to adjust its processes to reflect wider organisational changes such as the realignment of Older People and Physical Disability Services

13.2 Changes to Mental Health services will also impact on complaints arrangements. In the past complaints about secondary mental health services were delegated to the Kent and Medway Partnership Trust (KMPT) to respond to both health and social care aspects of the complaint. From 1 October 2018, it is intended that the Adult Social Care Complaints Team will lead on the complaints that relate to the social care element of secondary mental health services and will liaise with the KMPT complaints team on any joint complaints.

13.3 We will continue to use complaints, along with other feedback, to identify opportunities to learn any lessons for the wider service. This will include liaising with the newly appointed Adult Principal Social Worker.

13.4 The service will continue to seek improvements to the complaints and enquiry response times. Managers dealing with complaints are often balancing several priorities however it is important that complaints are responded to within timescales as any delays to complaints can lead to further dissatisfaction. It is important that any follow-up actions, after a complaint is closed, including making payments or undertaking assessments are made in a timely manner.

13.5 The Local Government Ombudsman, along with Healthwatch, recently produced a "Single Complaints Statement". It is intended for adult social care practitioners and for organisations that commission, arrange and provide social care. The purpose of the statement is to:

- "inform their approach for acting on compliments, feedback and complaints

- set out what people who use services, their unpaid carers, family and their representatives can reasonably expect from organisations that provide and arrange adult social care when they leave compliments and feedback or complain about a service or member of staff; and
- provide prompts or good practice in complaint handling for those organisations”.

13.6 The Statement will be used to reflect on complaints practice both within the Adult Social Care and within the wider care sector.

14. Report Conclusion

14.1 In 2017/18 the Directorate continued to operate a robust and effective complaints procedure to meet its obligations under the statutory regulations. The complaints team has logged, administered and managed complaints, enquiries and compliments. The team has also managed the communication with the Local Government Ombudsman to ensure the Directorate is effectively represented.

14.2 The emphasis in complaints management is on bringing about a resolution and putting things right for the individual if the service has not been to the standard required. It is also about learning the lessons from complaints to prevent similar complaints from arising again. Complaints are taken seriously by the senior management teams who receive regular reports as well as taking an active role in complaints resolution.

14.3 The number of complaints and enquiries received in 2017/18 remained quite high although slightly lower than in the previous year. Managers continue to focus on delivering a high standard of service and dealing effectively with complaints and other customer feedback is a key part of this.

15. Recommendations

15.1 Recommendations: The Adult Social Care Cabinet Committee is asked to CONSIDER and COMMENT ON the content of this report
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16. Background Documents

None

17. Report Author

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