

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

To: Adult Social Care Cabinet Committee - 27 September 2019

Subject: **ADULT SOCIAL CARE ANNUAL COMPLAINTS REPORT (2018-2019)**

Classification: Unrestricted

Previous Pathway of Paper: Adult Social Care and Health Directorate Management Team Meeting - 11 September 2019

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 2018 and 31 March 2019.

Recommendation: The Adult Social Care 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 and Health Customer Care and Complaints and provides an overview of the operation of the complaints and representation procedure in 2018/19. The report includes summary data on the complaints, enquiries and compliments 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 KCC Adult Social Care Complaints and Representations 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.
- 2.6 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 for Kent and Medway Councils.
- 2.7 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 timescale 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.
- 2.8 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 (LGO). The LGO provides the final stage in the process.

2.9 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.

2.10 In addition to complying with the Regulations, the Complaints Team also seeks to deliver best practice in line with LGO guidance.

3. Total Representations received by Adult Social Care

3.1 Appendix 1 contains information about the number and type of complaints received in 2018/19.

3.2 The figures show an increase in the number of complaints received with 780 complaints received in 2018/19 compared with 637 the previous year. This reflects the complexity of demand and pressures on services.

3.3 There were three main contributing factors for the increase in the number of complaints.

- There was a significant increase in the number of complaints relating to the Blue Badge Service, with 76 complaints received. This was due, in large part, to a change in the Department for Transport Blue Badges Information System in February 2019. As a result of the change, a huge data transfer had to take place from the Department for Transport to a local system that had to be put in place. The transfer was largely successful but there were some complaints about delays because of the system change. Most of the 30,000 Kent Blue Badge applications received during the year were dealt with efficiently. A second aspect was increased expectations following publicity for the planned extension of Blue Badge eligibility in September 2019. Some people had heard of the proposed changes but were not aware that the change was still to be implemented.
- During 2018-19, Mental Health Social Care services transferred back to the Local Authority from the Kent and Medway Partnership Foundation Trust. Previously the management of complaints had been delegated to the Trust however the responsibility for complaints transferred back with the service. There were 28 complaints about mental health services that would have been previously reported in the Trust's figures.
- There was also an increase in the number of complaints about the Area Referral Management Service (ARMS) with 52 complaints received. Wider organisational changes impacted on the number of calls to the service and at the same time there was staff turnover in a couple of the ARMS teams which affected the capacity of the teams to respond promptly to the enquiries received.

- 3.4 The 780 statutory complaints received in 2018-19 also need to be seen in the context of the large number of people accessing Adult Social Care services. There were 38,433 open adult social care cases at the start of 2018-19 and a further 28,498 new referrals received during the year (excluding Blue Badge applications). The percentage of people who made a complaint was therefore approximately one per cent of people receiving services or referred to the service.
- 3.5 There was also an increase 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 services then it is logged as an Enquiry. Enquiries can also include instances where someone does not want to make a complaint but does want to formally raise an issue. In 2018/19, there were 345 Enquiries compared with 276 the previous year.
- 3.6 In 2018/19, 480 compliments (or merits) were logged. 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 61% of complaints were responded to within the 20-day timescale agreed with the complainant. 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.
- 4.3 The increased number of complaints and enquiries and the increased complexity of some complaints, for example mental health complaints which can involve other agencies and take some time to resolve, have impacted on response times however investment in the Customer Care and Complaints Team following a redesign of the service in April 2019 should lead to improvements.

5. Themes identified arising from complaints

- 5.1 Communication or the lack of provision of information is a theme in many complaints. Examples include where the service user or a family member feels they have not been kept informed or where there have been delays in communicating decisions or changes in circumstances.
- 5.2 Another theme in many complaints relates to disputes about charges. Examples include where individuals are unhappy that they are being charged or dispute the amount they are being charged where there may have been a change to the level of care delivered.
- 5.3 Disputed decisions also give rise to complaints. Examples include where a family member disagrees with an assessment and considers an elderly relative requires more support than is being provided but the service user is content with the support they are receiving.
- 5.4 Complaints are also received about care providers where the service user or their representative is not happy with the quality of care provided by the care agency or the care home.
- 5.5 Delays are a factor in some complaints where an individual expresses dissatisfaction due to a delay in funding being agreed or a delay in a service being put in place.
- 5.6 Staff conduct is also referred to in some complaints where the service user or carer is unhappy with the perceived behaviour or attitude of the member of staff the service user is 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 in 2018.19, 36% of complaints were upheld; 27% were partially upheld and 31% were not upheld. Approximately 5% were withdrawn or suspended 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 Management Teams and lessons from complaints are presented to the Quality and Good Practice Group meetings. Whenever a complaint is upheld or partially upheld a lesson or further action is identified to rectify any issues. Sometimes the feedback will be reminders to staff of practice issues and sometimes the lessons will lead to more tangible changes.

7.3 Some of the lessons/issues arising from complaints received in 2018/19 are as follows:

- During 2018-19 there was an increase in the number of complaints about the Area Referral Management Service. This included complaints about delays getting through to the service and the non-return of calls when messages had been left. A Business Support Manager has been appointed to support the service across the county. This will allow resources to be targeted where they are required. There has been a recruitment programme to recruit staff to the teams and a thorough induction programme has been developed for new staff. A management plan has been produced to focus on the most urgent of cases, and additional support has been brought in to clear the backlog.
- In addition, a project has been commissioned to look at the arrangements for accessing services including the opportunities for digital access. The feedback from complaints is being used to inform the project and it is planned that interviews take place with several service users to learn more from their experiences.
- Another complaint raised an issue regarding a delay in engaging a District Nurse to visit a service user in an Integrated Care Centre. This was a concern as it delayed the individual from getting the health support they required. As part of the learning from the complaint, workshops were subsequently held for managers of in-house residential services to remind them of the need to escalate issues of concern or problems contacting partner agencies.
- A safeguarding complaint highlighted the need for officers involved in safeguarding investigations to have a very clear understanding of their roles and responsibilities in line with safeguarding principles. The area where the complaint happened subsequently tested a new way of working and a separate dedicated team was put in place to complete Safeguarding

Enquiries. The pilot proved successful and was implemented across Kent in August 2018.

- In 2018/19 several complaints were received from individuals where there had been an unacceptable delay regarding the provision of financial support for care services where their financial assets had depleted. As a result of the complaints, we now ensure people presenting as depleting with funds have their financial assessment completed before being transferred to the Adult Community Teams. Also, teams are expected to commence the care and financial assessment processes promptly when the individual's assets are depleted, and care providers are expected to advise service users where the individual's assets have depleted to a level that might qualify them for local authority support.
- A theme in some complaints is communication with practitioners. The nature of the work means they are often out of the office and not always contactable. As a result of the introduction of Client Support Service roles within many of the teams there is now a point of contact for the public if the practitioners are not available.
- In the 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. It was apparent that some members of staff who had transferred to the young people's service from children's services were not familiar with the charging policy. To address this, three workshops were held with the relevant staff in 2018/19 to explain the charging procedures.
- Following discussion in one of the Quality and Good Practice meetings it was apparent that some teams in the 16 to 25 Care Pathways Service were providing information packs to service users whilst other were not. When this became apparent it was agreed that a consistent approach was required for all 16 to 25 Care Pathway Services.
- In 2018-19, several complaints were received from care agencies who complained of delays in payments being made for services they had provided. A working group has been established to address the issue.
- A complaint also highlighted an issue with retrospective charges where an individual's circumstances have changed, and the decision was made to charge retrospectively for services they have received. The implications of this policy are being reviewed.

7.4 Lessons are also learned from the investigation of complaints. Following independent or "offline" investigations, there are adjudication meetings where

actions are agreed and the outcomes and any lessons from the complaints are shared more widely as appropriate. Meetings with Senior Managers are often arranged with complainants following independent investigations to discuss the findings and recommendations as part of the complaint conclusion.

7.5 The outcomes from complaints can also lead to training or specific actions for individuals or teams.

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.

9. Financial

9.1 In 2018/19, £28,699 was paid in financial settlements or financial adjustments. This included one case where an individual had paid care home fees which should have been free to the individual as he was eligible for Continuing Health Care. Most of the settlements/adjustments were for under £1,000.

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

10.1 The LGO contacted KCC Adult Social Care regarding 38 cases in 2018/19. This includes cases that were carried forward from the previous year and settled during the reporting year.

10.2 In 16 cases the cases were closed after initial enquiries or were not upheld or were withdrawn. There were 13 cases where the LGO found the council was at fault and 9 cases that were referred back to the council for investigation or the complaint is still with the LGO for consideration

10.3 The reasons giving rise to the complaints where fault was found varied however they included: a complaints regarding a delay in providing information, not involving a family member in a safeguarding enquiry, the application of a retrospective charge, and a delay in completing an assessment and determining a correct level of a Direct Payment.

10.4 Responding to enquires from the LGO is a significant part of the complaints process. Where an individual is not satisfied with the response, they can contact the LGO to ask for their complaint to be independently investigated. The LGO will usually contact the council to ask a number of questions and request copies of key source documents such as assessments and care and support plans. Although the number of enquires is not particularly high, each

enquiry that is being investigated requires a considerable amount of time and effort to ensure to ensure a thorough and robust response from the council.

11. Compliments (or merits)

11.1 The Directorate continues to log compliments or merits, with 480 received in 2018/19. 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:

- “I applied for a blue badge. I had my interview over the phone today and I wanted to tell you that that the lady I spoke with was wonderful. She was kind, caring, understanding and informative. She is an asset to your team I cannot sing her praises enough. The lack of understanding from people when they hear you have Fibromyalgia and ME is disheartening most of the time this lady really made my week and mostly likely made my entire month. I didn’t catch her name but hopefully you can find my details and find this lady and tell her how wonderful she is and that her kindness is often rare in today’s world”.
- “I wish for my gratitude and praise to be formally recognised as I do appreciate how busy you are. The work is excellent and a great help”.
- “My family and I have just gone through the sad and distressing time placing our lovely Dad into a care home. We have not always heard good stories regarding social services. We were allocated Andrea as our case worker and were pleasantly surprised how wrong we could be. Andrea was a breath of fresh air, very professional but at the same time very compassionate, feeling and so informative. Andrea was fantastic with my Dad who had trouble communicating as he had lost his speech through a stroke. She made this horrible experience less scary. It is good to know you have people on your team like her. We cannot thank her enough and just felt it important to let you know what a credit she is to this team. Dominic from the finance team was equally helpful, we didn’t meet him, but he had a great manner and was also very informative and caring. When families are facing these upsetting times, it is key for them to deal with people who are in check with their humanity and are sensitive to the situation. Both of these lovely people did exactly that”.
- “Very many thanks for all your help and advice. You and KAB have made such a difference to my disability, it is so much easier to live with. I cannot thank you enough”.
- “When I was discharged from hospital recently, I was not aware that the support provided by KCC existed. So many negative attitudes are adopted surrounding health care, but I cannot from my own experience thank you all enough. The human warmth and professional care shown to me by your team and been excellent and supportive in every way”.

- “The Kent Enablement at Home Team have all been absolutely fantastic. They are so reliable, caring, skilled, knowledgeable and compassionate. They have always shown my parents such respect and dignity. They are angels to us. They have held our family together at our most difficult time for which I thank you from the bottom of our hearts. Keep up your amazing work”.
- “Shared Lives is an organisation to be proud of and we would like to express our utmost sincere thanks and regards to you all as a team and individually”.

12. Customer Care and Complaints Operations

- 12.1 Receiving, administering and responding to complaints, enquires and compliments, and LGO enquiries, is a key part of the Customer Care and Complaints Team activity. Where possible the team seeks to find resolution and identifies wider organisational learning. In 2018/19 over 200 “correctional actions” were identified from complaints.
- 12.2 In April 2019, following a redesign of services, additional resource was put into the new Customer Experience Team. The new team brings together the complaints activity with the wider Adult Social Care consultation and engagement activity. This will provide greater synergy and the opportunity for greater organisational learning and the cross referencing of the various forms of customer feedback.
- 12.3 The rich insights from complaints and compliments will be used alongside the feedback from other sources such as focus groups, partnership boards, people’s panels, surveys and Healthwatch Kent. The additional resource in the Customer Experience Team will also enable greater analysis of complaints and the provision of relevant data for management teams, project work and audits.

13. Actions Planned in 2019/20

- 13.1 As described above, a key action for the team in 2019/20 is to continue to develop the organisational learning from complaints, compliments and other customer feedback. A current example is the input of information from complaints and from older people forums, to a current project on the Being Digital Strategy and access to services.
- 13.2 With wider organisational changes taking place in 2018/19, including the return of mental health social care services, some managers have requested training on investigating and responding to complaints and enquiries. Three one day workshops are planned to cover key themes such as the complaints procedure, investigating complaints, writing responses to complaints and learning the lessons from complaints.
- 13.3 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 are completed after a complaint is closed, for example making payments or undertaking assessments in a timely manner.

- 13.4 The team seeks to continually improve by reflecting on practices and processes. This includes scanning the wider environment to identify and learn from best practice, (including relevant documents produced by the LGO). We are also reviewing the weekly reports issued to managers and ensuring best use of systems. We will also work closely with partner agencies on the arrangements for joint complaints and plan to seek feedback on complaints and enquiries.
- 13.5 The service redesign provides the team with the opportunity to focus on the opportunities and challenges with contemporary service delivery. Whilst there is rich learning from incidents where practice has not been to the standard we would expect, the wider feedback, including where the practice has been to a high standard, also provides an important source of organisational insight. During 2019.20 we will be revising our public information booklet to seek a wider range of feedback. We will also work with colleagues in the Practice Development Service to complete “Appreciative Inquiries” to understand what supports positive practice and consider how this can be replicated across the wider Directorate.

14. Report Conclusion

- 14.1 In 2018/19 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 LGO 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 senior management who receive weekly reports as well as taking an active role in complaints resolution.
- 14.3 Although the number of complaints and enquiries increased in 2018/19, managers continue to focus on delivering a high standard of service. Dealing effectively with complaints and listening to service users, carers and other stakeholders 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.

16. Background Documents

None

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