

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

**To:** Adult Social Care Cabinet Committee - 17 November 2022

**Subject:** **ADULT SOCIAL CARE AND HEALTH ANNUAL COMPLAINTS REPORT 2021/22**

**Classification:** Unrestricted

**Past Pathway of Report:** None

**Future Pathway of Report:** None

**Electoral Division:** All

**Summary** This report provides Members with information about the operation of the Adult Social Care and Health Complaints and Representations' Procedure between 1 April 2021 and 31 March 2022.

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

## 1. Introduction

1.1 This report provides an overview of the operation of the complaints and representation procedure for Adult Social Care and Health during 2021/22. The report includes summary data on the complaints, enquiries and compliments received during the year with additional information in Appendices 1-5. It also provides examples of the actions taken and improvements made from complaints which are used to inform future service delivery.

## 2. Policy Context and Procedures

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

2.2 Associated with the Regulations, guidance was issued which outlines the three key principles of the procedure, **Listening** – establishing the facts and the required outcome; **Responding** – investigating and making a reasoned decision based on the facts/information and **Improving** – using complaints data to improve services and inform the business planning and commissioning processes.

2.3 Complaints, enquiries, informal concerns and compliments provide an opportunity for the people we support to offer feedback on our services. This allows us to listen to a person’s experience and to better understand how our services are received. Investigations into the concerns provide the opportunity to put things right if a mistake has occurred. It is important that we have a procedure that is flexible and puts the person at the heart of the investigation.

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

3.1 A total of **744 complaints** were received during 2021/22 about services delivered or commissioned in relation to ASCH. Appendix 1 contains information about the number and type of complaints.

3.2 The number of **complaints** received during 2021/22 has reduced by ten from the previous year and represents 1% of the people we support.

| Year           | Complaints received | % increase/ decrease on previous year | People receiving a service | % of people or their representative raising a complaint |
|----------------|---------------------|---------------------------------------|----------------------------|---|
| <b>2021/22</b> | 744                 | - 1%                                  | 74,723 *                   | 1%  |
| <b>2020/21</b> | 754                 | - 30%                                 | 67,212 *                   | 1%  |
| <b>2019/20</b> | 1,072               | + 41%                                 | 36,455                     | 3%  |
| <b>2018/19</b> | 780                 | + 24%                                 | 35,385                     | 2.2%  |

\* The figure of “people receiving a service” is much higher than that we have previously shown due to improved reporting capability on our new client database, Mosaic. The figure includes the total number of people that we have provided a service to throughout the year, rather than a snapshot of people receiving a service on a particular day which the previous figures related to. This is a more accurate number of people who had the opportunity to raise a complaint.

3.3 A total of **370 Enquiries** were received in 2021/22 which is a very slight decrease from the previous year. The majority of these Enquiries were from an MP or Member on behalf of a constituent about an aspect of the service they received.

| Year           | Enquiries received | % increase / decrease |
|----------------|--------------------|-----------------------|
| <b>2021/22</b> | 370                | 0%                    |
| <b>2020/21</b> | 381                | 0%                    |
| <b>2019/20</b> | 379                | + 10%                 |
| <b>2018/19</b> | 345                | + 25%                 |

- 3.4 In 2021/22, **375 compliments** were received which represents an 27% decrease from the previous year. The compliments provide useful feedback where people have written to ASCH with positive comments about their experience of using the service. Compliments are usually received via the operational teams and staff are encouraged to complete a form with details of the message and staff associated with the good work.
- 3.5 It has recently been noted that some staff are not consistently passing their compliments via this route, which has resulted in them not being logged and could explain the decrease in compliments recorded. Staff will be reminded to always pass on compliments to the Marketing and Resident Experience Team or via the Customer Care and Complaints Team. A few examples from compliments received are found in Appendix 2.

| Year           | Compliments received | % increase / decrease |
|----------------|----------------------|-----------------------|
| <b>2021/22</b> | 375                  | - 27%                 |
| <b>2020/21</b> | 512                  | - 1%                  |
| <b>2019/20</b> | 518                  | + 8%                  |
| <b>2018/19</b> | 480                  | - 5%                  |

- 3.6 In 2021/22, **210 informal concerns** were received which represents a 13% decrease from 2020/21. These are concerns that were locally resolved, within a short period of time, usually within 24 hours, by the Customer Care and Complaints Team, in consultation with the operational service. Someone raising an informal concern does not wish this to be logged as a formal complaint and is happy for their concern to be resolved via this route.
- 3.7 An example of an informal concern, is when a person we support raised a follow-up query after an assessment, which was passed onto the Case Manager to respond to directly. Another example was someone requesting information about a referral to the Kent Enablement at Home Team following a shoulder operation, which was resolved by a member of the team telephoning the person to explain about the referral process and offering reassurance that support would be forthcoming.

| Year           | Informal concerns | % increase / decrease |
|----------------|-------------------|-----------------------|
| <b>2021/22</b> | 210               | - 13%                 |
| <b>2020/21</b> | 242               | - 18%                 |
| <b>2019/20</b> | 298               | + 146%                |
| <b>2018/19</b> | 121               | + 17%                 |

#### 4. Coroner's Inquest Requests

- 4.1 From October 2020, the Customer Care and Complaints Team has managed and co-ordinated the requests from the Coroner's Office for reports or information to support the work they are taking forward with inquests. In 2021/22 the team managed **43** Coroner's requests. This is a similar pro-rata rate to that recorded for the previous six month period.

| Year                  | Coroner's Inquest Requests |
|-----------------------|----------------------------|
| 2021/22               | 43                         |
| 2020/21<br>(6 months) | 23                         |

- 4.2 The Customer Care and Complaints Team manages the process to ensure effective communication, tracking and sign off between the Coroner's Office, adult social care operational teams and Invicta Law.

#### 5. Compliance with standards

- 5.1 KCC aims to respond to 85% of complaints within KCC's Key Performance target of 20 working days. ASCH complaints can be complex and therefore additional time is sometimes required to either meet with the complainant or consult with other agencies. When this happens and with the agreement of the complainant, an extension to the deadline can be agreed; 39 complaints had their timescales extended during the year.
- 5.2 The response time achieved within target was **72%** which is a 12% improvement from the previous year.

| Year    | Complaints closed | % responded to within 20 days |
|---------|-------------------|-------------------------------|
| 2021/22 | 743               | 72%                           |
| 2020/21 | 783               | 60%                           |
| 2019/20 | 1,063             | 60%                           |
| 2018/19 | 746               | 61%                           |

- 5.3 100% of complaints were acknowledged within three working days.

- 5.4 Delay reasons - The table below shows the overall delay reason cited in not meeting the 20-day standard.

| Stage 1 delay reason                    | Total | %   |
|---|-------|-----|
| Complex case                            | 55    | 29% |
| Sign off delay                          | 38    | 20% |
| More information required from customer | 35    | 18% |
| Workload                                | 26    | 14% |
| Staff absent or unavailable             | 12    | 6%  |
| Customer unavailable                    | 10    | 5%  |
| Third Party Delay                       | 6     | 3%  |
| Joint Response Delay                    | 4     | 2%  |
| Internal information or records missing | 2     | 1%  |
| Sought Legal Advice                     | 2     | 1%  |
| <b>Total</b>                            | 190   |     |

## 6. Listening to complainants and methods of engagement

- 6.1 An initial telephone call is made by the Customer Care and Complaints Team to the complainant to acknowledge and clarify the complaints to be investigated and check on any special requirements or adjustments to be made during the course of the investigation. After the complaint is allocated to a Team Manager for investigation, a further opportunity is afforded to discuss the complaint and investigation with the complainant. Managers have undertaken this further discussion in 70% of complaint investigations. This allows the investigating manager time to understand the impact of the complaint on the person and supports the preparation of the response to ensure all areas are covered and the tone is appropriate.
- 6.2 Information about how to complain is available on our website and on our “Have your say” Comments, Complaints and Compliments leaflet which should be given to the people we support during the initial contact visit or assessment. All types of communication are encouraged and accepted, so that people can complain in the way they feel most comfortable.
- 6.3 As an example the team received a complaint from a person receiving care and support, who chose to submit their complaint via an uploaded video on You Tube. The chosen method of communication to respond was with a video call because of distress caused to the person when receiving post. This method also provided the person an opportunity to raise questions on the findings from the investigation during the call. The person was assisted by their Support Worker throughout the process and demonstrates the flexibility within the process to be person centred.

6.4 The most popular way to make a complaint was via email at 44%, followed by telephone at 27%, self-service/online at 15% and by letter at 8%.

| Method                | Volume     |     |
|-----------------------|------------|-----|
| Email                 | 324        | 44% |
| Telephone             | 199        | 27% |
| Self service + online | 112        | 15% |
| Post                  | 59         | 8%  |
| Contact Centre        | 47         | 6 % |
| Comment Card          | 1          | -   |
| Face to face          | 1          | -   |
| Social Media          | 1          | -   |
| <b>Total</b>          | <b>744</b> |     |

## 7. Complaint outcomes

7.1 Each complainant receives an individually prepared response following an investigation into the concerns raised. The response letter provides an explanation of the findings, details what has been done to put things right and offers an apology, where appropriate. Some complaints lead to lessons being identified and these are detailed within the response which offers reassurance that the issue has been taken seriously and the lesson has been shared with staff to discuss the expected good practice. A summary of the outcome of the complaints is recorded in the table below:-

| Year           | Complaints closed | Upheld + partially Upheld | Not upheld | Resolved upon receipt/ withdrawn/suspended/ another procedure |
|----------------|-------------------|---------------------------|------------|---|
| <b>2021/22</b> | 743               | 49%                       | 28%        | 23%   |
| <b>2020/21</b> | 783               | 48%                       | 31%        | 21%   |
| <b>2019/20</b> | 1,063             | 66%                       | 26%        | 8%  |
| <b>2018/19</b> | 716               | 66%                       | 30%        | 4%  |

7.2 The number of complaints upheld or partially upheld remains similar to last year at 49%. This pattern shows a steady decline over the years in the number of complaints upheld.

7.3 20% of complaints or concerns raised were “resolved upon receipt” which demonstrates that flexibility is applied if a concern raised can easily be rectified upon receipt by liaising with operational teams to sort out the concern raised quickly.

## 8. Themes identified arising from complaints

8.1 The reasons for complaints are shown below and categorised under the following main corporate headings:

| Problem                                | Total | Upheld/<br>partly<br>upheld |
|--|-------|-----------------------------|
| Issues with service/quality of service | 277   | 157                         |
| Policy and Procedure                   | 236   | 117                         |
| Communications                         | 220   | 101                         |
| Staff Conduct                          | 40    | 18                          |
| Equalities and regulatory              | 18    | 6                           |
| Impact of major incident               | 2     | 1                           |
| Service not provided                   | 1     | 1                           |
| Value for money                        | 1     | 0                           |

- **Covid-19** continued to have a significant impact on how we deliver services during the year. Some complaints received related to the impact of restrictions that remained in place for some social care settings and the opening of services.
- **Communications/delay in contacting the customer.** Communication remains one of the top issues raised during complaint investigations and is approximately a quarter of our complaints. Examples include when requests for a call back or contact via another source are not taken forward leaving the person frustrated and distressed.
- **Incorrect/insufficient advice given** is selected when a person reports that they have not been provided with sufficient information regarding services. An example of this is when a person feels that they were not provided the full information regarding deferred payments, the person we support may feel that they have not been made aware of the process and criteria, including advice on whether or not they would be eligible for their property to be disregarded from their financial assessment.
- Some complaints raise issues about the **quality of service** and these often relate to the quality of care provision by a third party. The Council is still responsible however for any commissioned services delivered on our behalf. For example, when someone feels that the care provided is inappropriate and the person we support has been left without the correct medication or that the timings of their care calls had not been consistent. Other examples would be of residential care provision where a provider has not provided good personal care

or when food and drink have been left out of reach of the resident or where a resident's belongings had gone missing.

- Complaints relating to **Staff conduct** are taken seriously and upheld issues are addressed through supervision and training. Example complaints under this category include people who feel that staff did not communicate with them in a courteous manner.

## **9. Putting things right and improving – creating opportunities**

- 9.1 Feedback from a complaint investigation provides a vital source of insight about people's experiences of adult social care and an opportunity to put things right.
- 9.2 Lessons or corrective actions are identified when a complaint is upheld or partially upheld. These actions can be for the individual worker, team or might be a wider lesson to share across all the teams. The lessons are also shared with the Strategic Safeguarding, Practice and Quality Assurance Team and reminders to staff are sent out via a variety of methods, including Senior Management Team key messages or Practice Postcards.
- 9.3 A summary of corrective actions undertaken by Division is found in Appendix 3. Examples of how we have put things right and shared the learning is contained in Appendix 4 and a few examples of these are below:-

**You said – you felt that staff may benefit from further training around conditions such as Dementia**

**We did – we have reviewed our reflective Practice Programme to ensure that sessions on Dementia care are revisited, to improve the understanding for staff**

**You said – you would have liked a family member to attend an assessment with you.**

**We did – we reminded staff to always ensure that people are asked if they would like someone else to participate in their assessment**



**You said – we did not progress your care plan because your worker was absent which caused a delay in the provision being arranged.**

**We did – the team now regularly reviews and re-allocates outstanding work when a member of staff is absent for a length of time**

**You said – you felt that there were delays in returning calls, or replying to emails.**

**We did – we reminded staff to ensure that they are responding to communications in a timely manner.**

**You said – we did not tell you when services were re-opening following easing of COVID-19 restrictions.**

**We did – we have reviewed our lines of communication to ensure information is appropriately shared.**

**You said- that the invoices you received were not accurate or easy to understand**

**We did – we are reviewing the invoicing system and have made initial improvements to the content of the Kentcare invoices**

9.4 The table below shows the top remedy actions

| Action taken                       |     |
|------------------------------------|-----|
| Change or review communications    | 125 |
| Arrange staff training or guidance | 123 |
| Apology                            | 118 |
| Discuss at team meeting            | 106 |
| Financial remedy                   | 68  |
| Change/review policy or procedure  | 31  |
| Change/Review service              | 27  |

## 10. Financial implications

10.1 In 2021/22 a total of £147,416 was paid to complainants as gesture of goodwill payments, financial settlements or adjustments as a result of complaints where errors have occurred. This includes financial adjustments as a result of Covid, where service provision may have been suspended and it was considered appropriate to waive the charges or where errors have occurred over not effectively communicating about a charge.

10.2 This figure also includes payments of £8,507 recommended as part of the Local Government and Social Care Ombudsman (LGSCO) enquiries.

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

11.1 The second part of the complaints process for complainants is to contact the Local Government and Social Care Ombudsman. The LGSCO gives the Council four weeks to respond to a full investigation request.

11.2 The table below explains that the LGSCO raised an investigation on 62 cases and 39 of those cases were progressed to a full investigation during 2021/22. This represents 8% of complaints that progressed to the LGSCO. The LGSCO found fault and upheld the complaints in 23 of these cases which represents 37% which is a reduction from the previous year.

| Year           | Complaints received | Complaints closed that progressed to LGSCO | % of cases progressed | Not upheld | Upheld | Other outcome (closed after enquiries/ premature/ withdrawn/ | % of upheld against cases progressed |
|----------------|---------------------|--|-----------------------|------------|--------|--|--------------------------------------|
| <b>2021/22</b> | 743                 | 62   | 8%                    | 16         | 23     | 23   | 37%                                  |
| <b>2020/21</b> | 754                 | 45   | 6%                    | 6          | 19     | 20   | 42%                                  |
| <b>2019/20</b> | 1,072               | 53   | 5%                    | 7          | 15     | 31   | 28%                                  |
| <b>2018/19</b> | 780                 | 38   | 5%                    | 7          | 16     | 15   | 69%                                  |

11.3 The table below demonstrates the main causes of the upheld complaints:

|                           |     |
|---------------------------|-----|
| Policy and Procedure      | 44% |
| Issues with service       | 39% |
| Communications            | 10% |
| Equalities and regulatory | 3%  |
| Staff Conduct             | 3%  |
| Impact of major incident  | 1%  |

11.4 The LGSCO’s summaries of the cases are found in Appendix 5 and below are a **few themes and highlights** to consider from those upheld cases:

The importance of accurate **recording** was highlighted within investigations, some where recording was good, we could defend and account for our actions, especially telephone calls where issues were explained or challenged. Others however highlighted that recording was not effective and we could not therefore evidence actions taken, for instance explain about a charge for a service.

**Charging issues** were raised in many of the upheld investigations, these included:

- failures to communicate with the person we support or their family about being charged for services
- failing to communicate with people over queries about invoices
- failing to undertake financial assessment and provide information about a charge before arranging care services
- failure to calculate charges properly and inappropriately pursue arrears
- failure not to disregard someone’s property when calculating care costs.

**Communication**

- not clearly communicating about paying for reablement care following hospital discharge
- poor communication over the arrangement of a care package.
- failure to respond to correspondence about trying to resolve problem over care and charging and wrongly advising to continue to pay for day services.

**Assessment and review**

- reducing support without involving the client and without notice and delays in arranging a Direct Payment
- not sharing the care and support plan before the financial assessment was completed
- delay in responding to concerns about someone being unable to get the support required
- failure to meet person’s care and support needs when they were prevented from accessing more than one day service due to Covid-19

- failure to assess all the risks and consider what other support could be provided
- failure to consider someone's opinion or the information provided about health problems when requesting a stairlift and decision making was flawed and took too long
- failure to accurately assess someone's mental health needs within a timely manner and failing to properly consider their complaint
- failure to review someone's care needs leaving family to meet person's care needs in the meantime.
- failure to correctly administer the Shared Lives scheme de-registration panel and have a robust appeal process in place

### **Quality of care**

- failure of care provider to provide satisfactory care
- failure to communicate with family members over deterioration of client and failure to thoroughly investigate a complaint
- fault in care delivered and staff not acting in line with Covid guidance and record keeping

### **Blue badges**

- failure to consider all medical information before refusing to issue a Blue Badge,
- fault in considering application
- failure in communicating effectively in decision letter to adequately explain reasons.

## **11.5 LGSCO Public Report**

The Council received one public report during 2021/22. The Ombudsman releases public reports where they believe that there is an issue that has significant public interest and that the learning from that issue could be applied to other authorities. This enquiry related to the delay in taking forward a Deprivation of Liberty Safeguard assessment, inadequate arrangements put in place in respect of a best interests' meeting and lack of consultation before placing someone in a care home and the failure to appoint an Independent Mental Capacity Advocate.

Details of this LGSCO Public Report enquiry and a summary of their Report can be found in Appendix 6.

## **11.6 LGSCO Annual Letter**

Each year the Council receives an Annual Letter from the LGSCO which summarises the activity with them and highlights any issues for the coming year. The LGSCO raised an issue about the delays in responding to their enquiries on time. It is essential that these enquiries are given priority within the operational teams to improve the response times to the LGSCO enquiries.

Remedies are issued by the LGSCO that are taken forward and include sending apology letters to the person we support or their family, offering financial remedy, reviewing policies or procedures in recognition of the error and staff training.

All recommendations have been taken forward in a timely manner and satisfaction letters issued by the LGSCO.

## 12. Report Conclusion

12.1 The Customer Care and Complaints Team has continued to successfully manage and liaise with operational colleagues to ensure a thorough investigation and response is sent to all our complainants. Any further queries raised have been appropriately escalated or clarified and we have effectively worked with the LGSCO to respond to questions and requests for information. The response rate has improved by 12% within a 20-day timescale to 72% for 2021/22. The first half of 2022/23 has seen further improvement to 78% in response times and an increase of 23% of complaints received.

## 13. Recommendations

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

## 15. Background Documents

None

## 16. Report Author

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