

From: Graham Gibbens, Cabinet Member for Adult Social Care and Public Health
Andrew Ireland, Corporate Director of Social Care, Health and Wellbeing

To: Adult Social Care and Health Cabinet Committee –
12 July 2016

Subject: ADULT SOCIAL CARE ANNUAL COMPLAINTS REPORT
(2015-2016)

Classification: Unrestricted

Previous Pathway: Social Care, Health and Wellbeing DMT

Future Pathway: 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 2015 and 31 March 2016.
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 Local Authorities have a statutory duty to have in place a complaints and representations procedure for Adult Social Care services. Furthermore, each local authority that has a responsibility to provide social services is required to publish an annual report relating to the operation of its complaints and representations procedure.
- 1.2 This report provides an overview of the operation of the complaints procedure for Adult Social Care services. It includes summary data on complaints and enquiries received during the year. It also provides Members with examples of the lessons learned from complaints which are used to inform and improve future service delivery.

2. Policy Context and Procedures

- 2.1 The NHS and Community Care Act 1990 placed statutory requirements on local authority social service departments to have a complaints procedure in place. The legislation and associated statutory guidance was prescriptive about how the procedures should operate in practice.

- 2.2 For Adult Social Care, there was a significant change to the complaints procedure in 2009 with the introduction of Regulations with the objective of delivering a consistent approach to complaints handling for both Health and Social Care.
- 2.3 The key principles of the procedure are **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.
- 2.4 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 Kent and Medway.
- 2.5 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 must be done within three days of receipt. Thereafter, the response time is agreed with the complainant and reflects the circumstances and complexity of the complaint. When appropriate, an independent investigator will complete an investigation into the complaint.

3. Total Representations received by Adult Social Care

- 3.1 Appendix 1 contains information about the number and type of complaints received.
- 3.2 The figures show an increase in the number of complaints received in 2015/16 compared with previous years (659 statutory complaints in 2015/16 compared with 538 in 2014/15). This reflects the increased demand and pressures on services during a time of transformation and change and a time of financial constraint. There was a slight decrease in the number of enquiries (the enquiries include letters from MPs on behalf of constituents). In 2015/16, there were 403 enquiries compared with 408 the previous year.
- 3.3 The number of statutory complaints received (659), is relatively small when put in the context that there were 31,012 open adult social care cases at the start of 2015-16 and a further 19,156 referrals were received during the course of the year.
- 3.4 In 2015/16, 523 compliments (or merits) were logged. The compliments provide useful feedback where people had written to Adult Social Care with positive comments about their experience of using the service. There was a decrease in the number of compliments received in the previous year (778) but this is partly accounted for by the compliments about financial services now being logged separately.

4. Performance against timeframes

- 4.1 The average response time for statutory complaints is set within a complaint plan timeframe 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 negotiated.

- 4.2 Approximately 70% of complaints were responded to within the 20 day timescale agreed with the complainant and 92% of complaints were acknowledged within the statutory timescale of three working days. For enquiries, 89% were acknowledged in 3 working days and 63% were responded to in 20 working days.

5. Themes identified arising from complaints

- 5.1 It has been another challenging year in terms of the number of complaints and enquiries received. The budgetary pressures have led to pressures on Adult Social Care Services and the wider social care market. However, the increase in complaints is a general increase rather than being attributable to any one factor and reflects the increased complexity of case management.
- 5.2 Communication is a theme that crops up in many complaints. A particular issue towards the start of 2015-16 was that some members of the public experienced problems when trying to contact a case or care manager by telephone. A factor was the switch to the Unified Communication telephone system used in the County Council and a lack of familiarity amongst practitioners with the new system. (This was addressed by providing workshops and information for staff).
- 5.3 There was an increase in the number of complaints received as a result of disputed decisions (281 in 2015/16 compared to 185 in 2014/15). Examples include where people consider they require more support than has been agreed or where the support has been decreased following a review of needs or where someone is unhappy about the level of charging. There was also a significant increase in the number of complaints where there were disputes about charges compared with the previous year (114 in 2015/16 compared with 45 in 2014/15).
- 5.4 Delay was a factor mentioned in approximately 181 complaints. Examples included delays in adaptations to property being completed and delays in services being arranged.
- 5.5 Some people complained about the lack of availability of residential placements. In some cases this related to a lack of placements for people with specific types of needs and other cases it related to a lack of choice of provision in particular localities.
- 5.6 The Local Authority also logs complaints about contracted providers. These are investigated by the case/care manager and also brought to the attention of the Strategic Commissioning service as part of the intelligence for contract monitoring.

6. The Outcome of Complaints

- 6.1 The Local Authority is required to report on the number of complaints received that are considered to be “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 222 complaints were upheld; 151 were partially upheld and 198 were not upheld.

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 provide 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 regularly presented to the Divisional Management Teams. The Quality and Good Practice Group meetings are also used to reflect on issues arising from complaints and an opportunity to identify lessons to be learnt. Operational teams identify a representative for the group who then takes a lead role within their teams for good practice and sharing lessons.
- 7.3 Some of the lessons/issues arising in 2015/16 and discussed at the Quality and Practice Group included:
- It was evident from some complaints that relatives/family members sometimes felt they were not communicated with regarding decisions or changes in circumstances. (Although the client’s right to confidentiality also has to be recognised). There were a number of complaints relating to safeguarding where families did not feel they were kept sufficiently informed. The Making Safeguarding Personal initiative has helped to address this
 - The need to ensure that the assessment is “joined up” where more than one service is involved. This became apparent where an individual was in contact with Older People Physical Disability, Mental Health and Sensory Services. The lack of an agreed assessment led to different views about what should be in the person’s Care and Support Plan
 - One complaint highlighted a problem where there was a delay in responding to a case where a person had suffered a fall and the family were requesting an urgent respite placement. In the locality where the complaint occurred a guidance document was produced for the practitioners about “on call” arrangements
 - Another issue that was identified through complaints was a gap in service when staff go on leave or unexpectedly have to take time off. It was apparent in some cases that the public found it difficult to know who to contact in such circumstances and decisions were being delayed. In Learning Disability Services each team has been asked to put arrangements in place to cover such eventualities
 - In one case the tenancy agreement for someone in sheltered living was terminated and it took some time for alternative arrangements to

be set up. Following this case a Good Practice note was issued to practitioners

- In the Good Practice meetings there has been a reminder of the need to ensure information is entered onto the systems in a timely way following assessments and financial assessments. Where this has not occurred it can lead to a delay in invoices being issued (leading to a sizeable Bill being sent when it is issued) and delays to providers being paid. The introduction of a placements services should help to address this issue and ensure service users and /or their representative is provided with information about charging
- Complaints provided a reminder that good record keeping should be maintained, particularly where decisions are made or a significant change takes place for the service user.

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.

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

8. External investigations

8.1 There were 5 off line investigations carried out during the year. 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. In these cases, the complainant has felt their complaints have been taken seriously and an independent view has been obtained.

9. Financial

9.1 In 2015/16, £20,122 has been paid in financial settlements – including cases where the Local Government Ombudsman 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 time and trouble to pursue a complaint.

9.2 During the same time frame £89,912 of financial adjustments has been made to accounts. 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 Ombudsman (LGO)

10.1 There were a total of 45 referrals about County Council Adult Social Care made to the LGO during the year. Additional cases were carried forward from

the previous year and settled during the reporting year (these are not included in the figures). This is a slight increase from the previous year when 38 new referrals were made.

10.2 Of those complaints, where a final decision was received the outcome was:-

- 4 cases where the LGO closed the case after initial enquires and there was no further action
- 9 cases that were not upheld
- 1 case upheld but not further action
- 8 cases where the complaint was considered premature
- 4 cases where there was maladministration but no injustice
- 9 cases where there was maladministration and injustice
- 10 cases which are currently with the LGO

10.3 A summary of the cases where the Local Government Ombudsman found fault with injustice, is provided in the appendices.

11. Compliments (or merits)

11.1 The Directorate continues to log compliments or merits, with 523 received in 2015/16. These also provide useful feedback and serve as a useful reminder of the many people who are very satisfied with the service they have received.

11.2 Just a few examples are provided below:

- “I just wanted to say that I was impressed with the professional, helpful and can do approach of the Case Manager”
- “The Enablement Program has made me see a future for all of us as a family”
- “The Case Manager is inspiring, positive and determined. She gives assistance to others and responds positively to requests for help”
- “The Care Manager’s support has been completely and utterly valuable to us. Nothing is too much trouble and she always goes above and beyond the call of duty”

12. Complaints operations

12.1 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 County Council website. An easy-read version of the complaints booklet is also available.

12.2 The Directorate uses the “Respond” database for complaints, enquiries, compliments and formal advocacy referrals. The system continues to provide an invaluable resource to register the contact and to manage the workflow and produce management reports. It is likely that a Corporate Complaints database will be procured in the future. If social care complaints and enquiries are to be included in the corporate database then it is essential that the database is configured so

that the Directorate can continue to meet all its statutory requirements in terms of complaints handling and reporting.

- 12.3 During 2015/16, the complaints team delivered several training events for managers. The training has covered the complaints processes, investigating complaints and learning the lessons from complaints.
- 12.4 Training has also been provided for staff in the new Mental Health Primary Care Social Care Service. The complaints team continues to work closely with the Patient Experience Team in the Kent and Medway Partnership Trust which handles complaints about secondary mental health services. Also the Adult Social Care team is proactive in working with health partners to facilitate joint working and joint responses to complaints that have a health and social care element.
- 12.5 From April 2016, the children's and adult complaints teams will work more closely under a single line management arrangement.

13. Care Act 2014

- 13.1 It had been expected that the Care Act 2014 would include provision for an Appeals Process that would operate alongside the Adult Social Care complaints procedure. The Department of Health conducted a consultation but the decision was taken to defer the introduction of the Appeals process until 2020. At this stage there is little detail regarding the appeals process and how it would work in practice but information from the Department of Health suggests it is still on its agenda.
- 13.2 As part of the April 2015 Care Act changes, there is an emphasis on advocacy and the right for individuals who cannot take up issues themselves, to make a formal representation through an advocate. The Formal Advocacy Referrals can be logged on the complaints database but to date the numbers received have been low.

14. Special Educational Needs and Disability Tribunals

- 14.1 The Children and Families Act 2014 introduced reforms to Special Educational Needs and Disability Services (SEND). One of the reforms was to introduce Education, Health and Care Assessments and Plans to replace SEN statements. In March 2015 the Department for Education produced Regulations to enable pilot areas to have Tribunals which take a wider view to include the health and social care elements of the plans. Kent is one of the pilot areas for the Tribunals
- 14.2 The SEND reforms cover the children and young people with special educational needs and disability in the 0 to 25 age group. Potentially therefore the Tribunals could consider the care element of someone's Education, Health and Care Plan. Adult Social Care is working with colleagues in SEN and Children's Services.

15. Report Conclusion

- 15.1 In 2015/16, the Directorate continued to operate a robust and effective complaint's procedure to meet its obligations under the statutory regulations. The complaints team has logged, administered and responded to complaints, enquiries and compliments.
- 15.2 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 management team who receive regular reports as well as taking an active role in complaints resolution.
- 15.3 It has been, and continues to be, a time of significant change in Adult Social Care including the transformation of services and greater integration with health. It also continues to be a time of severe budgetary pressures on services. There has been an increase in the number of complaints and enquiries received, nevertheless, managers continue to focus on delivering a high standard of service and dealing effectively with complaints is part of this.

16. Recommendations

- | |
|--|
| 16.1 Recommendations: The Adult Social Care and Health Cabinet Committee is asked to CONSIDER and COMMENT ON the content of this report. |
|--|

17. Background Documents

None

18. Report Author

Anthony Mort
Customer Care and Operations Manager
03000 415424
Anthony.mort@kent.gov.uk