

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

To: Adult Social Care Cabinet Committee – 20 July 2017

Subject: **ADULT SOCIAL CARE ANNUAL COMPLAINTS REPORT (2016-2017)**

Classification: Unrestricted

Previous Pathway of Paper: Social Care, Health and Wellbeing Directorate Management Team

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 2016 and 31 March 2017.

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 the Adult Social Care complaints procedure and provides an overview of the operation of the procedure in 2016/17. 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 new 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 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.
- 2.6 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 in Kent and Medway. The protocol was revised and updated in 2016/17.
- 2.8 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.
- 2.9 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.
- 2.10 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.

3. Total Representations received by Adult Social Care

- 3.1 Appendix 1 contains information about the number and type of complaints received in 2016/17.
- 3.2 The figures show a slight decrease in the number of complaints received in 2016/17 compared with the previous year (649 complaints in 2016/17 compared with 662 in 2015/16). The number of complaints however remains relatively high compared to the numbers that were being received several years ago (538 in 2014/15 and 398 in 2013/14). This is a reflection on the increased demand and pressures on services during a time of transformation, change and financial constraint.
- 3.3 The 649 statutory complaints received need to be seen in the context of the large number of people accessing the service. There were 38,577 open adult social care cases at the start of 2016-17 and a further 32,105 new referrals were received during the course of the year relating to clients previously not known to the service. The percentage of people who made a complaint was about 0.9%.
- 3.4 There was a decrease in the number of Enquiries. Where correspondence is received from an MP or 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 2016/17, there were 362 enquiries compared with 403 the previous year.
- 3.5 In 2016/17, 430 compliments (or merits) were logged. This was a decrease from the 523 received in the previous year. The compliments provide useful feedback where people have written to Adult Social Care with positive comments about their experience of using the service.

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 90% of **complaints** were acknowledged within the statutory timescale of three working days and approximately 68% of complaints were responded to within the 20 day timescale agreed with the complainant. For **enquiries**, 92% were acknowledged in three working days and 71% were responded to in 20 working days.
- 4.3 The response times on complaints dipped slightly compared with the previous year (69% in 2015/16) however the response times for Enquiries improved (61% in

2015/16). Meeting the time scales has proved challenging particularly in some of the Older People/Physical Disability (OPPD) teams where the service average dropped from 66% to 65% and managers have had to balance the competing demands. An Assistant Director has been given a lead role for Quality and Practice Assurance in OPPD and a focus on complaints and improving response times in 2016/17 is part of this role.

- 4.4 If a complaint response is likely to be delayed and outside the agreed time scale then a holding letter is sent to the complainant to explain that there will be a delay. A weekly report is also issued to remind staff of any complaints that are pending or overdue.

5. Themes identified arising from complaints

- 5.1 The increase in complaints over the past two or three years is a general increase rather than attributable to any one factor. It reflects the pressures on the service and the wider social care market and the increased complexity of case management.
- 5.2 A disputed decision remains a key theme in many complaints. Examples include where people consider they require more support than has been agreed or where the support has been decreased following a review of care needs or where someone is unhappy about the level of charging. In 2015/16 there was a significant increase in the number of complaints received as a result of disputed decisions (281 in 2015/16 compared to 185 in 2014/15). The number of complaints about disputed decisions remained constant in 2016/17 with 281 complaints.
- 5.3 The number of complaints specifically about charging however decreased from 114 in 2015/16 to 102 in 2016/17.
- 5.4 Although it remains a feature of many complaints, there was a decrease in the number of complaints about communication. This includes people who said they had not been given sufficient information. In the previous year, following the introduction of new telephony arrangements, there were a significant number of people who complained about not getting a response to their telephone calls. Workshops were provided for staff and the number of complaints about this specific issue reduced in 2016/17 by almost 50%.
- 5.5 The number of complaints about delays, decreased from 181 in 2015/16 to 119 in 2016/17. Examples of the complaints about delays included where there were delays with adaptations to property being completed and delays in services being arranged.
- 5.6 In a number of complaints (75), the main complaint issue was reference to the behaviour or attitude of the member of staff that the service user was in contact with. Where a complaint investigation has found that 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.

- 5.7 The Local Authority also logs complaints about contracted care providers where the service has been commissioned for an individual. For example, this includes complaints where an individual has been placed in a residential or nursing home or is in receipt of home care arranged by the Council. 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. There were 100 complaints with Quality of Care as the main issue in 2016/17 compared with 90 in the previous year.

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 199 complaints were upheld; 198 were partially upheld and 181 were not upheld. There were 33 complaints withdrawn and others were 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 it is therefore important to maintain an open and learning culture that is receptive to feedback from customers.
- 7.2 Complaints reports are presented to both 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 an opportunity to identify lessons to be learnt. 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 2016/17 and discussed at the Quality and Good Practice Group included:

- The difficulties some services users experienced in communication with the service. There was a reminder of the need to keep the service user, and where appropriate the relatives/family members, informed of any key changes in the case, for example following a review or a re-assessment. There were a number of complaints relating to safeguarding where families did not feel they were kept sufficiently informed. The national Making Safeguarding Personal initiative has helped to address this along with the production of Kent specific information leaflets for individuals affected by Safeguarding.
- Several complaints highlighted the need for closer inter-agency working where a number of agencies are involved in a case. At the Quality and Good Practice Group meetings, there was a reminder of the benefits of joint working particularly in relation to individuals who might have a range of needs and be in contact with several agencies.
- Another issue identified through complaints was a gap in service delivery when members of staff take 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. Many teams have reviewed their arrangements and put processes in place for cover if someone goes on unexpected leave.
- There have been some complaints where it has been unclear how a decision was arrived at where an individual lacked capacity and so this was raised at the Quality and Good Practice Group meetings. Where a person lacks mental capacity then a Best Interests Meeting may need to be convened to assist in making a Best Interests Decision.
- In the 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. There is also need for clarity where there is a “Third Party Top Up”. The Third Party Top Ups occur when the service user has chosen a care home where the fees are higher than the Council would expect to pay and a third party has agreed to pay the difference. The introduction of the County Placement Service has helped to ensure there is more consistent provision of information including information about services and charging.
- A “protection of property” related complaint led to a review and revision of the protection of property policy and changes to the e-learning training on this subject. Protection of Property is relevant when a service user moves into accommodation such as a care home and they are unable to protect or deal with their own property and there is no one else able to do it on their behalf.
- Complaints also flagged up the need for timely re-assessments or reviews where it is brought to the attention of the service that someone has a significant change of needs and may require an updated care and support plan.

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 six 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. 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 2016/17, £25,006 was paid in financial settlements. This included cases where the Local Government Ombudsman (LGO) 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 19 settlements and nine LGO cases were for under £1,000 but one settlement was for £9,907. The settlement related to the payment of invoices to a care provider where there had been an increase in costs.

9.2 During the same time frame 45 financial adjustments were made to accounts, or are in the process of being made, totalling £91,996. 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. There was one case where an incorrect invoice had been issued to a service user for £39,427. The account had to be adjusted to reflect the invoice had been sent in error. In another case an adjustment of £8,409 was made where back dated charges had been applied to a service user with learning disability but there was no evidence that the service user or his family had been notified of the charge and so it was decided to charge only from the date that they had been advised that he would have to pay for his care. In a third case it has been proposed that £16,056 should be waived in case where there was a delay in the completion of a financial assessment leading to a substantial invoice being sent to the service user but this is still subject to confirmation. There are therefore three cases which form a significant part of the adjustments for the year.

10. Complaints via the Local Government Ombudsman (LGO)

- 10.1 There were a total of 42 “referrals” about KCC Adult Social Care made to the LGO during 2016/17 where the LGO contacted the service. Additional cases were carried forward from the previous year and settled during the reporting year however these are not included in the 2016/17 figures for this report. There was a slight decrease from the previous year when 45 new referrals were made to the Ombudsman.
- 10.2 At the time of writing the LGO has arrived at a decision on 29 cases. In the other 13 cases the LGO’s decision is still awaited or still to be confirmed. Information about the decisions is included in Appendix 1 and a summary of the cases where the LGO found fault with injustice is included in Appendix 2.
- 10.3 Each year the LGO publishes a report with a “Review of Adult Social Care Complaints”. The most recent report was produced in November 2016 and provides information about the national picture in terms of the complaints and enquiries they received in 2015/16.
- 10.4 At a national level the LGO reported that they had received 2,969 complaints and Enquiries. There was a 6% increase in the complaints and Enquiries they received and a 19% increase in the complaints about care providers. The number of complaints they had received about Home Care increased by 25% which is much higher than any other area of social care.
- 10.5 It is not always possible to make useful comparisons with other Local Authorities regarding the number of complaints received. Although there are national regulations on complaints management there can still be differences in definitions of what is considered to be a complaint or varying arrangements for ensuring all complaints are logged. The LGO’s office however does maintain a record of the number of complaints received at the Ombudsman’s office about Adult Social Care per 100,000 of the general population. In the LGO report for 2015/16, Kent compares quite well with neighbouring Local Authorities: Kent (4.2), Surrey (6.1), East Sussex (9.7), West Sussex (5.3); Medway (6.1); and Essex (3.7)

11. Compliments (or merits)

- 11.1 The Directorate continues to log compliments or merits, with 430 received in 2016/17. 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 A few examples are provided below:
- “Thank you simply isn’t enough to say how much we appreciate the care and kindness you have shown our mum”.

- “I am writing to thank you for the dedicated care your team gave mum when she was desperately ill recently. The care your team gave our mum was just incredible; we do not believe she would have survived and be alive today without your teams”.
- “Mr and Mrs M: we would like to thank everyone for their assistance and great service.
- “I am completely satisfied with the support and help that we got from the direct payment worker. She is very good at her job, is very knowledgeable about helping and knows how to put you at ease”.
- “Just wanted to pass on a message from Mark (grandson of the client). They are extremely pleased with the grab rail and half step completed yesterday, not only by the quality of the work but also with the short time frame in which the work was completed”.

12. Complaints Operations

- 12.1 In April 2016, the Children Services and the Adult Services complaints teams came together to form one complaints team although they have retained their specialisms in terms of working to the different legislation and regulations which underpin the procedures. Closer working has proved beneficial in responding to complaints and enquiries about transition and in ensuring a consistent approach to complaints about the new Lifespan Pathway services which bridge the gap between children’s and adult’s services.
- 12.2 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.
- 12.3 In the past the Directorate has used the Respond database to log complaints, Enquiries, compliments and formal advocacy referrals. The system has proved to be an invaluable resource to register the contact and to manage the workflow and produce management reports. In 2016/17, following a tender process, the decision was taken to procure a different KCC customer feedback system. Work is currently in progress to configure and test the new database. It is important that the new system is configured to meet the business need and enable the Directorate to meet all its statutory requirements in terms of complaints handling and reporting.
- 12.4 In September 2016, the complaints team delivered an Effective Complaint Handling training event for managers and senior practitioners. The training covered the complaints processes, investigating complaints and learning the lessons from complaints.

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 course of the year the meetings have proved productive in promoting joint working. The Parliamentary and Health Services Ombudsman's liaison officer attended one meeting to give a comprehensive presentation on the work of the Health Ombudsman. 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 Partnership Trust (KMPT) Patient Experience team to ensure effective joint working on complaints about secondary mental health services.

13 Actions Planned in 2017/18

13.1 One of the key actions for the complaints team in 2017/18 is to manage a smooth transfer to the new complaints database. The database is a key resource for logging, monitoring and reporting on complaints, enquiries and merits and the intention is to manage the transfer to the new system with minimal disruption.

13.2 Another action for 2017/18 is to seek feedback from complainants and others on their experience of using the complaints procedure. In the past, the nature of the feedback has tended to reflect whether or not the individual was satisfied with the outcome of the complaint, nevertheless it could be useful to hear people's views on the service.

13.3 The service will continue to use complaints, along with other feedback, to identify opportunities to learn any lessons for the wider service.

13.4 The complaints team will need to adjust its processes and procedures to reflect wider organisational changes such as a move to a centralised commissioning service and the introduction of the Lifespan Pathway Service to streamline the transition from children's to adult services.

13.5 The service will continue to seek improvements to the complaints response times. Managers dealing with complaints are often balancing a number of priorities however it is important that complaints are responded to within timescales as any delays to complaints can lead to further dissatisfaction. The appointment of an Assistant Director in OPPD to a Quality and Practice Assurance role should improve the turnaround of complaints responses. The introduction of a new database should also improve the speed of communications and allow continued detailed performance monitoring and reporting

14. Report Conclusion

14.1 In 2016/17 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 the senior management teams who receive regular reports as well as taking an active role in complaints resolution.

14.3 It has been, and continues to be, a time of significant change in Adult Social Care including the transformation of services, the development of Lifespan Pathway Services and working towards greater integration with health. It has also been a time of severe budgetary pressure on services. The number of complaints and enquiries received 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.

16. Background Documents

None

17. Report Author

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