

Adult Social Care
Complaints Procedure
Annual Report 2014 - 15

1. Context

- 1.1 This report provides information on the handling of complaints, concerns, comments and compliments about adult social care services provided directly by Bath and North East Somerset Council. It covers the period 1st April 2014 to 31st March 2015.
- 1.2 The Local Authority is required under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 to have a procedure for the handling and consideration of complaints about its adult social care services. As the majority of services are commissioned by Bath and North East Somerset from Sirona Care and Health and other independent sector providers the scope of this report is limited to the complaints received by the Local Authority about the following areas of the service:
- The Local Authority's safeguarding responsibilities
 - The Local Authority's responsibilities for Deprivation of Liberties and Best Interest decisions.
 - Financial assessment and charging for care
 - The Approved Mental Health (AMP) Service
 - The mental health social work service
- 1.3 Although all feedback is recorded under one of the following four headings – comment, concern, compliment or complaint, for ease of reference all feedback falling under the categories of complaint or concern will be referred to as a 'complaint' throughout the report.
- 1.4 All organisations which have been commissioned by the Local Authority are required to respond to complaints about their services in accordance with their own procedures. They must advise all service users of their right to refer their complaint to the Local Authority (commissioner) if they are dissatisfied with a complaint response or if they have concerns about the vulnerability of a service user if a complaint is made. The organisation must also advise service users about the role of the Local Government Ombudsman (LGO) and in particular they must ensure that anyone who arranges and funds their own care is aware of the LGO from the outset.
- 1.5 The Local Authority must also have arrangements in place to work with partner agencies in health to address complaints which concern more than one agency. When the complaint is received the agencies must agree which agency will lead the complaints process.
- 1.6 During the year 43 complaints were received by the Local Authority. Three complaints were referred to the LGO.

2. The Complaints Procedure

2.1 What is a Complaint?

The Department of Health Guidance 'Learning from Complaints' (2006) defines a complaint as:

"An expression of dissatisfaction or disquiet about the actions, decisions or apparent failings of a local authority's adult social services provision which requires a response."

2.2 Who can make a complaint?

A person is eligible to make a complaint where the local authority has a power or duty to provide, or to secure the provision of, a service for someone.

An individual can make a complaint on someone else's behalf with the appropriate consent or authorisation. In these cases the Local Authority will need to satisfy itself that the complaint is in the best interests of the person on whose behalf the complaint is made. The same would apply where the person lacks capacity to provide their consent.

2.3 Who manages the process?

The Complaints Team is the first point of contact for the majority of complainants and it co-ordinates the response to the complaint. The Team will ensure that:

- The complaint has been understood and that there is a written record of the complaint;
- The complainant has been asked what they want to happen as a result of making the complaint;
- An assessment of the seriousness of the complaint has been made.
- A complaint which concerns a different agency is redirected within 3 working days;
- A plan is developed with the complainant and manager of the service concerned to confirm the arrangements for the investigation of the complaint;
- The complainant is provided with information about the progress of a complaint investigation.

2.4 What are the timescales for responding to a complaint?

There are no prescribed time limits for dealing with complaints, although the legislation suggests a maximum of 6 months. The expectation is that reasonable timescales are negotiated and agreed with the complainant. Bath

and North East Somerset has set default time scale of 15 working days for responding to a complaint, although it is possible to extend the timescale for more complex complaints where a full investigation is required.

2.5 What can the complainant expect as a response?

The response to the complaint is usually in writing. This sometimes follows a face to face meeting or telephone call. The response will explain the outcome of investigations and any action that will be taken to resolve the situation. The findings do not always fully support the complainant's view, however, the service always tries to give clear reasons for decisions, explain misunderstandings and agree a way forward.

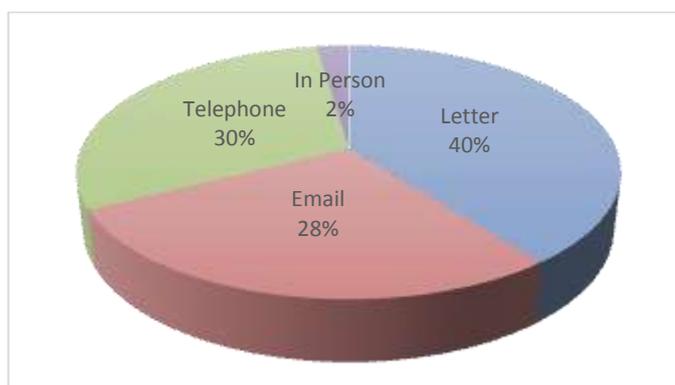
If the complainant is unhappy with the final decision, or the handling of their complaint, they are advised that they can refer their complaint to the Local Government Ombudsman.

The LGO has authority to investigate when it appears the complaints process has not resolved the complaint. In exceptional circumstances the LGO will look at complaints before the Local Authority has concluded its investigation. This is usually where the complainant/service user is considered to be particularly vulnerable.

3. Access to the Complaints Procedure

3.1 Information – it is important that staff make service users and their representatives aware by staff of the Complaints Procedure when they first contact the service. This can be achieved by providing leaflets or directly people to the Council's website. Staff should also explain how to escalate a complaint if the initial response does not resolve the complaint.

3.2 Contact - The chart below shows that complainants are using a variety of methods to make their complaint. It is important that service users are told that the complaint does not have to be in writing. Translation and interpretation services can be made available where needed.



- 3.3 Advocacy Support - Bath and North East Somerset Council commissions the Care Forum to provide an advocacy service for those needing help to pursue a complaint about social care. Experience has shown how beneficial it is for complainants to have support with their complaint particularly with writing letters of complaint and at meetings. In 2014 -15 two people accessed this service. One received assistance with letters and at a meeting and the other was given advice about redirecting their complaint to health services.
- 3.4 Making the complaints procedure more accessible - it is important for the Local Authority to understand which groups of service users are either accessing the complaints procedure themselves or are having complaints made on their behalf. This helps when deciding where to publish information about the complaints procedure and what is needed to assist people with their complaint.
- 3.5 Information about ethnicity, gender and disability is collected on the complaint form. There are gaps in this information as many people do not complete it on the form. The information is only used for statistical purposes and does not influence the response to the complaint.

	Service User	Complainant
Age		
18 – 65	9	19
65 and over	14	6
Not known/ given	20	18
Ethnicity		
White British	2	0
Not known/given	41	41
Gender		
Female	15	18
Male	13	7
Not known/given	15	18
Disability		
Disabled	23	0
Not disabled	3	0
Not known/given	17	43

4. Overview of complaints in 2014 – 15

- 4.1 The Local Authority received 43 complaints during the year. This was a significant increase from the previous year when 20 complaints were received. The table below shows the category these complaints fell into.

Response	Number	comments
Concern	2	Resolved without need for further investigation
Local Resolution	20	Response from first line manager of the service
Investigation	3	Investigation by someone independent of the service complained about
Joint investigation with other agency	0	
Referred to another agency	6	These complaints were referred to the agency to be dealt with under their own procedures as follows: 4 – Sirona 1 – Domiciliary Care Agency 1 – Clinical Commissioning Group
Outside Scope	4	Referred to Safeguarding
Not pursued	8	No further contact from complainant
Total	43	

- 4.2 The purpose of this report is to examine the complaints which Bath and North East Somerset was responsible for responding to through its own complaints procedure and the complaints which were referred to the Local Government Ombudsman. The complaints considered fall under the categories of local resolution and investigation.
- 4.3 When a complaint is received the Local Authority's primary concern is to put things right if they have gone wrong and then to learn from any errors that have been made.
- 4.4 Analysis of the complaints shows that the complaints covered the following areas.
- Financial assessment and charging for services – 8 complaints (1 x investigation)
 - Administration of a personal budget – 1 complaint
 - Non-payment of a carers allowance – 1 complaint
 - Application of deputyship procedures – 1 complaint
 - Issues with the safeguarding process – 5 complaints (2 x investigations)
 - Services provided by the Mental Health Social Work service – (1 x complaint, 1 x concern)
 - Advertisement for Care and Repair Service – 1 complaint
 - Customer service issues – 2 complaints

- Deprivation of Liberties assessment – 1 complaint
- Learning Disability (Review of complaint response from commissioned service) – 3 complaints

5. What has been learnt from the complaints?

5.1 Financial Assessment and Charging

As in previous years the majority of complaints concern financial assessment and charging for services, however, there has been a decrease in the numbers received compared to the previous year. In previous years a number of complaints concerned the delay in assessment and notification of charges. Action was taken to avoid this happening in the current year and the figures suggest this strategy has been successful. The complaints received generally concern disagreement with what has or has not been included in the assessment. The numbers received should be seen in the context of the number of assessments carried out in total.

The outcomes are recorded as: 2 upheld, 3 partially upheld and 2 not upheld. One complaint investigation was ongoing at the end of the year.

5.2 Safeguarding

The outcomes of these complaints were recorded as: 3 partially upheld and 2 not upheld.

Although 2 were not upheld 4 of the 5 complaint responses identified actions which needed to be addressed and these were incorporated in to action plans. The actions identified included:

- Review of guidance to ensure the rights of a family member who has Lasting Power of Attorney are understood;
- The 'Making Safeguarding Personal' pilot to consider the timing of closing a case – ensuring it is not kept open longer than necessary and therefore causing unnecessary distress;
- A number of actions in relation to communication between the Council and providers about safeguarding concerns within a home. This included particular reference to the Protocol for Managing Large Scale Safeguarding investigations and the need for the Council to be specific about the outcome of such investigations.
- Issues such as parents/carers being invited to attend safeguarding strategy meetings where the service user is unable to represent themselves to be considered as part of a review of procedures.

One complaint resulted in the safeguarding investigation being re-opened.

5.3 Learning Disabilities

Three complaints were referred to the Council by complainants who were dissatisfied with the response received from the service provider (in this case Sirona). The complaint responses were considered by the Senior Commissioning Manager with responsibility for Learning Disability Services.

The outcome was that: 2 complaints were upheld and 1 complaint was not upheld. The actions required in response were specific to the individuals concerned. One of these complaints was referred to the LGO.

5.4 Outcome of complaints from LGO

The findings on three complaints were received from the LGO during the year.

The LGO did not investigate 2 complaints and closed the case. One complaint was investigated and the out come was 'Upheld'. The final decision of the LGO was recorded as:

'There was some procedural fault causing injustice to Mr B. I consider the action the Council has taken is a suitable remedy for the failings that have been identified.

No further action was required on this case.

6. Responding to complaints

- 6.1 Internal standards are in place for the time scales for responding to complaints. The target is that 90% of all complaints receive a response within 15 working days but this can be varied according to the Complaint Plan drawn up when the complaint is received.
- 6.2 In 2014 – 15, 53% of complaints dealt with directly by the local authority received a response within the 15 working day time scale. This is below the target of 90% and needs further work. The average time taken to respond to a complaint was 33 working days.
- 6.3 Where it is agreed that a full independent complainant investigation is needed this should be concluded within 25 working days. This can also be varied in agreement with the complainant but the investigation must not take longer than 65 working days.

- 6.4 There were 3 independent complaint investigations during the year. None of these investigations were completed within the agreed timescale although the complainants were kept informed.

8. Overview of the Complaints Procedure 2014 – 15

A number of targets were set for 2014 – 15. These are set out below along with a summary of the actions taken:

- **During 2014 – 15 the Local Authority will review its policy and quality assurance framework to ensure the process for the monitoring complaints handling is operating effectively.**

An Assurance Framework was developed during the year to provide a framework for handling complaints, comments, concerns and compliments for organisations carrying out the Council's adult social care duties on its behalf. Sirona was given the opportunity to comment on the framework before it was concluded. The implementation of the framework will be reviewed in April 2016.

- **During 2014 – 15 the Local Authority will prepare for the implementation of the Act and consider how this will impact on the operation of the Complaints Procedure.**

This work was not progressed as the Government delayed the introduction of the 'care cost cap' and the appeals procedure until 2020. The regulations for the handling of complaints have therefore stayed unchanged.

- **During 2014 – 15 the system for responding to appeals and complaints about financial assessment and charging for services will be reviewed.**

Although the regulations will not now be changed to include an appeals system for financial assessment and charging, the procedure for handling complaints about financial assessments has been reviewed locally and there is now a clearer pathway for anyone wishing to challenge their financial assessment.

- **During 2014 – 15 a review of the literature available on the complaints procedure to the service users and the wider general public in Bath and North East Somerset will be carried out.**

This was deferred as there was uncertainty about changes to the appeals/complaints system.

9. Objectives for 2015 – 16

- It will be necessary to ensure that the Assurance Framework for monitoring complaints handling by organisations providing social care services on behalf of the Local Authority is embedded in preparation for the review in April 2016.
- A similar process should be developed for all providers of services, including residential care homes and domiciliary care agencies, in order to meet the requirements of the statutory regulations.
- This report has highlighted the need to address the timescales for responding to complaints. It is important for complainants that their complaint is resolved as quickly as possible. Procedures need to be revised to ensure this is happening.

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