

# **Kent Adult Social Care and Health Complaints Procedure**

**October 2017.**

# **KCC Adult Social Care**

## **Information for Staff about the Complaints Procedure**

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## 1. Introduction

KCC Adult Social Care as part of its approach to Customer Care has always placed a high priority on being receptive to complaints. Inevitably there will be times when the service delivered is not to the required standard or where it does not meet expectations. Where a service user or carer is dissatisfied with the service they have the right to make a complaint. As a learning organisation, we welcome complaints as a means of customer feedback, which ultimately provide us with opportunities to improve services. This enables the Directorate to provide services that best fit the needs of those people that use them. Therefore, complaints bring with them a number of opportunities:

- i. By receiving a complaint, it provides the Directorate with an opportunity to put things right. This might include giving an explanation or in some instances reviewing a decision or assessment.
- ii. Listening to the views of customers is part and parcel of being a receptive and customer centered organisation.
- iii. Complaints give valuable insights for setting service standards and monitoring quality.
- iv. By providing customers with a route for their complaints it reduces the likelihood of people seeking other avenues to express dissatisfaction.
- v. Many of the people in contact with the Directorate are vulnerable for one reason or another perhaps due to ill health or disability. It is imperative that people feel they can complain, with no recriminations, if they are unhappy about the standard of care provided.

The law sets out how the NHS and local authority adult social care services need to deal with complaints. In 2009, complaints regulations were issued along with Department of Health guidance on good practice. The KCC Adults Social Care procedure was reviewed to incorporate the regulations and guidance.

The approach focuses on the complainant and enables organisations to tailor a flexible and proportionate response that aims to resolve the complainant's specific concerns. It is also based on the LGO's principles of good complaints handling:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

The complaints approach is structured around three main principles: listening, responding and improving.

## **LISTENING**

The initial contact with someone who has concerns or wishes to complain about our service is key.

It is important that we:

- make sure that we really understand the issues
- find out what they want to happen as a result
- obtain the right information to assess the seriousness of a complaint
- agree a plan and timescale at the outset
- maintain regular communication
- act as quickly as possible

If we do this, people will feel more valued, they will have more confidence in our organisation, and we will be able to manage their expectations, so that the outcome is more likely to be to the satisfaction of everyone involved.

## **RESPONDING**

By correctly assessing the seriousness of a complaint, deciding on the most appropriate response then becomes more straightforward. The approach focuses on ensuring that our organisation is equipped to:

- clearly gauge the impact of the complaint on all the parties involved
- establish a clear, appropriate plan of action, and
- provide the person making the complaint with relevant support and advice.

## **IMPROVING**

Finally, complaints provide a vital source of insight about peoples' experiences of health and social care services, and how those services can improve for the benefit of everyone.

## **2. The role of the Complaints Team**

The complaints Team is responsible for the management of the complaints procedure. This includes:

The day to day administration of the system

Liaison with operational staff regarding responses

Providing advice and support to staff and the public

Receiving, logging and acknowledging complaints by telephone, letter, e-mail or in person.

Assisting with the co-ordination of off line investigations and LGO cases.

Other responsibilities include

Reviewing, updating and publicising the procedures

Preparing reports for management teams and quality and practice groups

Producing the complaints annual report.

The Team is in the Operational Support Unit based in:

Invicta House

County Hall

Maidstone

Kent

M14 1XX

e-mail [complaintsteamadults@kent.gov.uk](mailto:complaintsteamadults@kent.gov.uk)

Tel 03000 410410

Text phone 08001 03000 410410.

### **3. Outline of complaints procedure for service users and their carers**

A service user or their carer is referred to as a 'qualifying individual' in legal terms. Even if the service they are complaining about is provided by a contractor, as long as the service is part of the package of care agreed by this Directorate, they remain a qualifying individual. However, service users who receive a Direct Payment are not covered within the complaints process if their complaint is about the care provider they have commissioned (If the complaint is about the assessment, support plan, allocation of the DP or reviews, then these would be considered in the procedures).

There are two stages to the complaints procedure for a service user or their carer:

Step One                   ⇒     KCC response to the complaint  
Step Two                   ⇒     Local Government Ombudsman

#### **3.1 Step One: KCC Response**

The intention should be to try to resolve the complaint as quickly as possible by someone close to the point of service delivery. If the complaint can be resolved on the spot in the same day, then it should be. If however the complaint cannot be resolved straightaway then it should be brought to the attention/sent to the complaints team and the complainant should be provided with information about the complaints procedure.

The complaints team must acknowledge the complaint within 3 working days and agree a plan with the complainant at the outset.

Any plan needs to be proportionate, achievable and cost-effective and it is important to update it as the issue progresses. Any plan should include the following:

- What you have agreed to do to resolve the issue
- A timescale for doing so
- How and when you will update the person on any progress
- Any support the person complaining might need
- The immediate actions they might take, such as an apology

Any changes to the plan must be agreed with the complainant.

For complaints that do not require an in depth investigation, every effort should be made to resolve the complaint within 20 working days.

Any action taken to resolve the complaint may be as simple as arranging a meeting, returning a telephone call promptly, sending documents that have been delayed or correcting an error in a financial assessment.

It is important to provide an explanation at this stage of the process, as often complaints escalate simply because of a misunderstanding of the Directorate's role. From experience, it is best to put the explanation in writing. The benefits to this are twofold; the complainant has a record to refer to and there is written evidence of an effort to clarify the situation.

Many complaints are resolved "on the spot" or within 24 hours and written details about the complaint and the action taken to resolve it are not recorded. Any complaints that highlight a problem with practice or procedures, even if resolved swiftly, should be notified to the complaints team, who will be able to advise you accordingly.

The person tasked with investigating the complaint should contact the complainant either by phone or face to face meeting. This is an opportunity to be clear what the complaint is about, to check at the outset what the person complaining expects as an outcome and to try to find a resolution. Also, if you agree a plan with them and explain how the issue has been resolved, all parties can benefit from the process.

Both the Health Service Ombudsman and the Local Government Ombudsman have made it clear that if a service is in the wrong it must try to put things right.

When someone makes a complaint about the service, they have a right to a response which explains how their concerns have been resolved, what action has been taken and their right to take the matter further. Every response will be different, especially for complex issues, but it may include all or some of the following:

- A summary of each element of the complaint
- Details of policies or guidelines followed
- A summary of the investigation
- Details of key issues or facts identified by an investigation
- Conclusions of the investigation: was there an error, omission or shortfall in the service? Did this disadvantage the complainant, and if so, how?
- What needs to be done to put things right
- An apology, if one is needed
- An explanation of what happens next, e.g. what will be done, who will do it, and when
- Information on what the person complaining should do if they are still unhappy
- Information on the Local Government Ombudsman

If it is decided that the best way to resolve a complaint is to proceed with an investigation, the complaints team will appoint an Investigating Officer, who

depending on the nature of the complaint may or may not be in the direct line management of the individual or service complained about. There may be times where due to the nature of the complaint, an Independent Investigating Officer will be commissioned, this will be someone not currently employed by KCC.

During the investigation, files will need to be examined. Relevant staff and the complainant may be interviewed. A report will be produced that will usually be shared with staff and the complainant, because the Directorate has a policy of open access to records, notwithstanding the Freedom of Information Act. This may not be possible if there is a conflict with the Directorate's duty of confidentiality to staff and clients.

The report will form the basis for a written reply to the complainant signed by the appropriate Director or the Corporate Director, who will also agree any follow up action required. Details of the complaint and a copy of the reply must be kept on the clients file. However, if the service user does not wish this to happen or if there would be problems with staff confidentiality, seek advice from the complaints team.

Mental Health Services.

Complaints about the KCC Primary Mental Health Services are logged and responded to as described within this Complaints Procedure document. Complaints relating to secondary mental health services delivered by KMPT, including complaints about the social care services delivered by the Trust, are in the first instance managed by the Trust's Patient Experience/Complaints Team. If however the complaint progresses to the Ombudsman then the Ombudsman can ask the Local Authority to respond to issues the Council is responsible for even if delivered through the Trust.

### **3.2 Step Two: Ombudsman**

The Local Government Ombudsman will expect Adult Social Care to have tried to resolve the issues and provide a proportionate response based on the nature of the complaint before they become involved. The final letter from Adult Social Care to the complainant should answer the complaint, reflect what has been done to resolve the complaint and provide the contact details for the LGO.

If the LGO should contact KCC about a complaint it is important that the complaint and response is fully considered, any issues addressed and the response to the LGO is within the time frame asked by the LGO.



## **4 How to deal with complaints made by people who are not service users**

Complaints may be made by:

- A person (or someone acting on their behalf) who receives or has received services from Adult Social Care; or
- A person (or someone acting on their behalf) who is affected, or likely to be affected by the action, omission or decision Adult Social Care

This is quite broad and most people making a complaint to adult social care will fit into one of the above categories. However there may still be a few complaints received from people about adult social care but do not fit into the above categories. In these cases they will not fit into the statutory process but could still be considered in the wider KCC complaint procedure.

## **5. When the complaints procedure is inappropriate**

Some complaints need dealing with in accordance with other procedures used within the Directorate. In such cases it can be confusing and time wasting to all concerned if these 'complaints' are progressed through the complaints procedure. The Complaints Team can advise in these situations.

### **i. Referrals/Safeguarding**

The most common case where the complainant is actually a referral to a particular service is in safeguarding. The safeguarding procedures and protection of an individual take precedence over the Directorate's complaints procedures. Therefore the complaint may be held in abeyance, depending on the circumstances of the case, until such time as the safeguarding procedures have been concluded.

### **ii. Personnel issues**

These do not enter the complaints procedure as there are disciplinary and grievance procedures in place to deal with them.

## **6 Enquiries**

Many general enquiries that come into the Directorate are recorded and administered by the complaints team to ensure a response is provided within a reasonable timescale. A typical example is a letter from an MP to the lead KCC member for Adult Social Care making an enquiry on behalf of a constituent. It is important that these enquiries are looked into and responded to within the set time-scales.

## **7 Merits or compliments**

Many people do write to thank the Directorate for good service. These are acknowledged and recorded on the same database as complaints and enquiries. Details of merits received are available from the complaints team.

The compliments provide useful feedback and can lead to recognition of individuals and teams.

## **8. Remedies and Redress.**

Often, when someone first complains, they simply want to understand how the problem occurred and get an apology or reassurance that the same thing will not happen again. Those who want some kind of redress often just want to be in the position they were in before they felt the need to complain.

There are a number of remedies that can be used to resolve a complaint and the remedy should be proportionate to the circumstances. For example the remedial action in a complaint about an assessment could be a fresh assessment of need or a review of the previous assessment. Another example is a dispute about charging, if there has been a fault resulting in a financial loss for an individual then they should be reimbursed the amount of loss.

The response to a complaint will naturally depend on the circumstances of each case. However, the Local Government Ombudsman has some useful advice:

“There are some principles you can follow when you want to put things right. Whenever possible: put someone in the position they would have been if the fault had not occurred, make the remedy appropriate and proportionate to the harm suffered, take specific action if it’s needed, offer compensation if appropriate and always apologise if you are at fault. Also consider whether any practices, procedures or policies should be reviewed.”

The Complaints Team can offer advice regarding an offer of compensation or financial redress. In some instances where there is clear fault and possibly an injustice to the individual then the complainant has been provided with a sum of money to reflect the time and trouble they have incurred. In such cases the Local Authority would consider the LGO guidance.

The Corporate Risk and Insurance manager in KCC’s Finance Department handle claims for financial compensation at County Hall.

Such claims might come to the attention of staff in various ways such as:

- A letter of complaint
- A letter from a solicitor
- Through the duty system
- After a service user has gone through their file.

If you receive a complaint which makes a definite request for compensation then the complaint should be referred immediately - and without acknowledgement - to the Corporate Risk and Insurance Manager in the Finance Department at Sessions House, County Hall. Where a complaint just contains a suggestion that the complainant might pursue a claim for compensation, the Head of Service or Director concerned can respond direct to the complainant, but care should be taken as an admission of liability by a member of staff could invalidate the Directorate's insurance cover.

If in doubt seek advice.

## **9. Publicising the complaints procedure**

It is recommended that service users and their carers should be provided with details of the complaints procedure. In KCC care homes and day centres, copies of the complaints booklet "Have Your Say" should be available for service users.

This leaflet should also be available at all our offices. Information about the adult social care complaints procedure is available on [kent.gov](http://kent.gov) and is available in other formats on request and is available in Easy Read.

As well as using leaflets to publicise the procedure, staff need to understand the process so that they are confident about receiving complaints.

Some service users need help to make a complaint and may ask a friend or relative to help them. Some voluntary organisations offer advice and support for complainants and these types of advocacy services are already in place. Mediation is another option to consider to assist with complaints resolution.

## **10. How to receive a complaint**

Staff in Adult Social Care often have to deal with worried or unhappy people. Examples include older people realising that they cannot cope by themselves or families stressed by the behaviour of their relative. These people have 'grumbles' about the situation they are in which need to be separated from complaints.

The term 'complaint' as used in this handbook is an expression of dissatisfaction with a service received from or arranged by this Directorate.

If you are speaking to someone who is complaining try to remain calm and professional. This is not always easy if they are angry or rude. You need to take details of:

1. Who they are and how they can be contacted – if they wish to remain anonymous explain you will still take further details but they need to understand that it would be helpful if the investigator of the complaint had the option of contacting them for more information. It is also fair to explain that we would not divulge their identity unless in exceptional circumstances but the person being complained about may guess who made the complaint by the nature of it.
2. Who they are complaining on behalf of – if themselves it is simple but if someone else is involved it is helpful to know whether they know the complaint is being made for them and it may be necessary for them to sign a brief note authorising the complainant to speak on their behalf.
3. The complaint – stick to the facts and only ask enough questions to clarify dates, times, places and people. If it starts being so complicated you are getting muddled, suggest that it would be better to meet with them or if they prefer, to put it in writing themselves to ensure the facts are correct. Do not be tempted to soften the message when writing the notes up. If that is how the complainant perceives a situation then whoever investigates the complaint needs to know the scale of misunderstanding or hard feeling.
4. What the complainant wants as an outcome for their complaint – this is often difficult. If they request financial compensation record it, but do not comment. Other possibilities include a change of worker, reassessment of the service or financial contribution, assurance that the same mistake will not reoccur or an apology for anything that should have been done better. It is important for the complainant to understand that you will pass on what they want but are not promising it will happen.

When you have noted all the details write them up and send two copies to the complainant inviting them to amend as necessary and return one signed copy to the Complaints Team.

## **11. Key points to remember when dealing with complaints**

- Be polite, courteous and helpful. It makes all the difference!
- Build rapport
- Establish key concerns
- Check and show understanding

- Present your position – explain what you can and cannot do and the estimated time it will take you
- Reach agreement on action/way forward
- Thank the person for bringing the complaint to your attention

The Directorate does not expect you to persist with any abusive caller. If the caller does not calm down sufficiently to enable you to take details, suggest they ring or return when they are able to explain better.

If a complainant has a communication problem, consult the Complaints Team who will arrange for the complaint to be heard as soon as possible using an interpreter or aid.

While taking the details it may become clear that the complaint will need to be looked into under other procedures such as the safeguarding procedures or personnel procedures. Continue to take the details but explain to the caller that you will need to seek advice about how the matter will be dealt with. Then consult with your senior manager or the Complaints Team as soon as possible.

## **12. What is customer care and why is it important?**

Customer care means:

- Providing a good quality service in a friendly, efficient and helpful way. We should continually strive to improve services by ensuring good communication and a positive attitude towards people who use our services;
- Treating other people how **they** would like to be treated;
- Treating each person as an individual. In order to do this we must understand and recognise that we are all different and that we all have diverse needs. These differences and needs can be based on our culture, language, ethnicity, age, gender, disability, literacy, sexual orientation or religion. Good customer care is about having a positive attitude towards and respect for diversity and, in turn, having the flexibility to adapt our behaviour and actions in a way that is appropriate for the individual;
- Treating people with dignity, respect and courtesy.
- Offering choices where possible;
- Giving information about what is available, and providing an explanation if a service is not available.

### **More Information**

More information is available in the shared G drive at:

G:\SC LDMH OSU Complaints Information

Or by contacting the Adult Social Care Complaints Team.

