

## **ADULT SOCIAL CARE DIRECTORATE COMPLAINTS GUIDANCE**

The following guidance is designed to assist staff in dealing with complaints and to help set out our processes clearly for your reference.

### **Legislation**

This guidance is designed to adhere to the requirements set out in the Department of Health's regulations for adult social care complaints handling. These are the Local Authority Social Services and NHS Complaints (England) Regulations, 2009.

### **Definition of complaints**

Complaints are defined within Surrey County Council as: "an expression of dissatisfaction, however made, about any aspect of the council's people, services, activities or policies. This includes actions taken, or services provided by people or organisations acting on our behalf".

For Adult Social Care, an additional component of a complaint is that the person making the complaint requires a response from the Directorate. This is therefore different to a comment (where the person making it does not seek a response, or a "grumble" where they may wish to draw our attention to their dissatisfaction but not require a response).

Adult Social Care also distinguishes a complaint from other views expressed by service users, such as comments and compliments.

### **Who may complain**

Any person using Adult Social Care services may complain. They may also use a representative (an advocate, either through a formal, recognised advocacy service, or through an informal arrangement, as long as that person can demonstrate the service user's permission to complain on their behalf).

The Directorate also accepts complaints from family members who are complaining in their own right, rather than on behalf of the service user (these constitute a large number of our complaints) as family members are often closely involved in the care service we deliver and rejecting their right of complaint would disenfranchise them and the Directorate recognises the legitimate desire that they have to complain.

### **Who may not complain**

The regulations state that anyone affected by Adult Social Care can make a complaint through the regulations. Adult Social Care therefore interprets

“affected” as including anyone receiving an adult social care service or anyone in need of one. Therefore if someone is not receiving a service, and is assessed as not needing a service, they are not affected by the actions or omissions of the Directorate, as they fall outside of the Directorate’s duty to provide a service.

Also, a family member or friend cannot make a complaint if the service user stipulates that they do not want that person to act as their advocate, they do not have permission to raise the complaint on the service user’s behalf or if the service user states that they wish to keep their details confidential from the complainant.

If a complaint relates to services outside of the statutory functions of the Directorate then it will not fall under this complaints procedure (however it may still be considered under a separate process and the Customer Relations Team will provide assistance).

If the person complaining has already had their complaint considered by the Directorate then it would not normally be considered again.

### **How complaints may be made**

In order to offer an accessible service, complaints may be made through a variety of media: in person, by phone, by email, online form or by email.

### **Logging the complaint**

All complaints should be logged with the ASC Customer Relations Team, using the Complaints Control Sheet (CCS) template.

You will normally receive the blank CCS from the ASC Customer Relations Team, when we receive the complaint on behalf of the Directorate. However, as you will know, you may receive the complaint directly where your team is the Directorate's first point of contact. In either case, please complete the CCS and return it to ASC Customer Relations within three working days. By completing the CCS you should find that this helps you with planning the investigation and assessing the risk in the complaint (these are two actions that Department of Health guidance requires us to do in every case). If you need help in planning the investigation or assessing risk please contact ASC Customer Relations.

The latest version of the CCS is attached below. Please delete any other versions that you might have.



ASC complaints  
control sheet v34 20

### **Acknowledgement letter**

In order to increase the possibility of resolving complaints positively, the Strategic Director has asked that you consider whether it is appropriate to meet complainant early in the process of their complaint. This reflects our commitment to customer care and also to solving problems.

The template letter below is designed to assist teams in efficiently and quickly acknowledging the complaint. The acknowledgement is also designed to meet statutory duties without becoming cumbersome. Current government legislation requires us to:

- Confirm receipt of the complaint within three working days;
- Discuss how you propose to answer the complaint with the complainant; and
- Develop a complaints plan.

The opening remarks in the letter are designed to meet the legislation's requirements. It is very important that we use the terms as they appear in the letter. Please also note that we are required to acknowledge complaints within three working days.

The acknowledgement template:



**The substantive response to the complaint, Adult Social Care's policy is to**

- Answer all complaints in full within twenty working days, where possible;
- Twenty days begins from the date that Adult Social Care **receives** the complaint, rather than from when you send your acknowledgement letter;
- Go back to complainant quickly and advise them where a response in twenty working days is not possible and extend this deadline;
- Ensure that we understand what the complaint(s) and the desired outcome(s) are that the complainant would like to achieve;
- Work to reach desired outcomes if possible, even if the complaints are not upheld. Where these outcomes cannot be met, we should still recognise the importance of these to the complainant;
- Aim to reach definite positions on the complaint(s). Managers should consider that their options include the following: upheld, not upheld, partly upheld or no finding. You do not need to use these terms in your letter (and, depending on the circumstances, they can be inflammatory) but having these terms in mind when framing your response is normally helpful;

- “No finding” should be used where there is no written evidence, or disputed evidence, or the conclusion of the complaint comes down to the complainant’s word against a member of staff (for example).
- Where you reach the conclusion that a complaint is upheld, discuss that with the member of staff **first** before releasing information to the complainant;
- Where you are upholding a complaint (or partly upholding a complaint) about a member of staff, the staff member has a right to challenge this finding. Another manager will make a final determination on the proposed finding;
- Affected members of staff are reminded of their right to seek advice from HR or their Trade Union representative;
- Record whether we are hitting our target deadlines in all cases on the CCS;
- Record all complaints at the team level on the Complaints Control Sheets (CCS);
- Return the CCS to the ASC Customer Relations Team as soon as it is completed, with the Outcomes and Learning’s tab fully completed; and
- Provide the ASC Customer Relations Team with your final response.

The response template is available below:



Draft Response  
Letter.doc

## In general

- All correspondence should meet the Council’s house style of Arial 12 point font;
- All dates should meet the Council’s house style of Day Month Year format (27 June 2014);
- Your letter should be in an accessible format as required;
- Please check your letters through for typographic errors, use of grammar and spelling mistakes before issuing;
- Consider having a colleague read your letter through before you issue it and feedback to you;
- Ask the ASC Customer Relations Team for their view on your draft if you need our assistance; and
- Information on useful wording is also available on the S-Net and embedded below.



Good  
Correspondence Guid

If you receive further correspondence from the complainant, please ensure you inform the ASC Customer Relations Team urgently. If we do not hear from you within twenty working days of your response to the complaint, ASC Customer Relations will then write to the complainant with the Directorate's closing letter. This step is taken to ensure that we have addressed the complaint in full before treating it as closed. Since 2009, the Directorate only has one opportunity to respond to complaints before the complainant has the right to approach the Local Government Ombudsman. Therefore, we have added the step of closing the complaint separately to your response.

The closing letter will:

- Confirm the position that you have adopted in your response;
- Formally close the complaint;
- Invite the complainant to submit feedback on their experience of complaining; and
- Advise the complainant how to approach the Ombudsman if they so wish.

For your information, the closing letter is included below:



6 Jan 2012 Closing  
Letter.doc

### **Complaints relating to third party providers**

A range of services are delivered on the Directorate's behalf by third party providers (such as residential care and domiciliary care). If Surrey County Council has commissioned the service then we are responsible for the complaint. Investigating and responding to the complaint may involve speaking to the provider or asking them to respond on our behalf. However, the County Council is ultimately responsible for both the service provided and for the quality of complaints handling. No provider should respond to the service user on our complaint without showing you their response in draft form first.

Options for responding are that the provider responds to you as you are leading on the complaint overall. You can then include the provider's response in your letter. Alternatively, the provider can respond directly to the complainant.

However, please note the following:

- The provider must adhere to the Directorate's standard response, both in terms of process and quality; and
- Delays on the part of the provider can impact on your overall performance for time taken to respond so you should monitor their contribution closely.

## **Direct Payment users**

If a service user has commissioned a service through a Direct Payment then that service is outside of Surrey Council's control. It would not normally be a matter for the Adult Social Care complaints procedure. Please speak to the Customer Relations Team if you feel that is the situation in complaints that you are dealing with.

## **Multi-agency complaints**

Some complex packages of care involve input from other providers, or from local NHS services, District and Boroughs or other Councils. In such cases, please discuss with the Customer Relations Team how to structure your reply and how to liaise with the relevant partner agencies.

## **Confidentiality**

As employees of Surrey County Council, we are all subject to the responsibilities listed on the core 'Managing Information - Your responsibilities' page.

All social care staff have a duty to safeguard confidential information relating to service users and we have very high legal and regulatory requirements for the information we hold.

When responding to a complaint, if you have any concerns about disclosing personal information about any service user, carer or member of staff with the complainant, please contact Customer Relations in the first instance. Customer Relations will liaise with the Information Governance Team, who will provide specialist advice.

Complaints responses need to balance providing a complete and accurate level of detail with ensuring we protect the confidentiality of people using services.

## **Timescales**

The regulations that we work to were written by the Department of Health. The regulations do not specify a timescale for responding to a complaint (they do specify a timescale of 3 working days to acknowledge a complaint).

As part of our good practice, the Directorate has set our own timescales and we work to these at key points in our complaints handling. There are a number of timescales attached to our complaints handling and discussed above. For ease of reference they are repeated in this section as follows:

All days referred to are working days and commence from the date of receipt of the complaint.

<b>Acknowledging the complaint</b>	<b>3 working days</b>
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Complainants' response to the acknowledgement (where you set out the complaints plan and your understanding of the complaint and the desired outcomes).	5 working days
Target deadline for your substantive response	20 working days

After you have sent your substantive response, the complainant is normally invited to respond to state whether they accept your findings or want to discuss them further. The Directorate gives the complainant twenty working days to respond at this point.

After that, Customer Relations will normally write to close the complaint and to let the complainant know how to approach the Local Government Ombudsman. On occasion the Directorate will deviate from these steps. Customer Relations will discuss with you further as and when necessary.

### **Extending Timescales**

Staff have the option of extending a timescale when they cannot meet the initial deadline. This option is at your discretion but you are encouraged to have clear reasons as to why an extension is necessary. Please contact the complainant directly and negotiate the new deadline with them.

In a very small number of cases, a complainant may reject your request to extend the deadline. In such instances, contact the Customer Relations Team to discuss further. However, the Department of Health's regulations only require the Council to let the complainant know when s/he can expect a reply. The Council should then work as quickly as possible on the response. Therefore, if the new timescale is disputed, you should note the complainant's objection and explain that you will be working to the new deadline that you have set.

Where complainants remain dissatisfied, please refer them to the Customer Relations Team.

### **Unreasonably persistent complainants**

A very small number of people present unreasonably persistent complaints to local authorities. In such cases, the Directorate follows the separate guidance. Guidance on how to identify and manage unreasonable customer behaviour is available on line (<https://snet.surreycc.gov.uk/customer-service/comments-compliments-complaints/unreasonable-customer-behaviour>).

A first step is to contact your manager to discuss and then raise with the Customer Relations Team to agree a strategy.

### **Members' Enquiries**

The Directorate has a separate process for Members' Enquiries. This is available as separate guidance from the ASC Customer Relations Team. A Members' Enquiry is defined as:

- Either a letter or email from an elected representative; and
- A phone call that requires a written response

A Member is an elected official, either a Member of Parliament or a Councillor. (They may or may not be a Surrey MP or a Surrey County Councillor, depending on who their constituent is and their relationship to our service user).

An enquiry is not a complaint or a safeguarding alert, but could trigger one and the same customer could overlap between services.

The email inbox for Members' Enquiries for Adult Social Care is [asc.membersenquiries@surreycc.gov.uk](mailto:asc.membersenquiries@surreycc.gov.uk)

(Please note there is an unrelated inbox for corporate enquiries to Surrey County Council Members. Do not use that one).

## **Compliments**

The Directorate has a separate process for compliments and this has been circulated separately. Compliments should be returned to the dedicated email address to [compliments@surreycc.gov.uk](mailto:compliments@surreycc.gov.uk) or through the internal post to the Customer Relations Team.

To discuss individual complaints or enquiries, and how to respond, please contact the ASC Customer Relations Team.  
[Asc.customerrelations@surreycc.gov.uk](mailto:Asc.customerrelations@surreycc.gov.uk)

Tel: 01483 518300

ASC Customer Relations  
July 2018