



## **THE ADULT SOCIAL CARE COMPLAINTS POLICY**

**April 2009**  
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## **1.0**

### **Purpose**

#### **1.1**

Cambridgeshire County Council considers every encounter between staff and service users, carers and the public to be an opportunity to learn from people's experiences of its services. This learning should be used to continuously improve the quality of these experiences as well as Local Authority services, and so increase the organisation's accountability to those it serves.

#### **1.2**

This policy clarifies the distinction between the informal concerns and formal complaints resolution processes as well as defining who and how someone may raise concerns or complaints with the Local Authority. The policy also lays out the processes and duties the organisation should use to help resolve concerns and complaints when they are received.

#### **1.3**

This policy does not apply to concerns or complaints that are being investigated through the Local Authority's Disciplinary and Grievance or 'Whistle blowing' procedures, or which are being pursued as legal claims.

## **2.0**

### **Principles**

#### **2.1**

#### **Honouring people's choices.**

Whilst the Local Authority aims to treat every concern or complaint equally seriously, whether informally or formally made, it recognises that many people value the choice of whether the organisation uses an informal (discussion with local staff) or formal route (Customer Care Team) to address the matters they have raised. The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 underlines the importance of allowing for this flexibility in designing person-centred ways of resolving people's concerns and complaints.

#### **2.2**

#### **Upholding people's rights.**

The Local Authority further recognises that raising a concern or complaint about its staff or services and having it dealt with thoroughly and respectfully is an important right of individuals.

#### **2.3**

#### **Acting with integrity.**

The Local Authority processes and duties will aim to reflect the principles for remedy and good administration outlined by the Local Government Ombudsman. Effective handling of concerns and complaints is about:

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

2.4 **Being open and honest.**

The Local Authority expects all investigations into concerns and complaints to be transparent. Where mistakes have been made or things have not gone well, responsibility will be taken by the appropriate person and a genuine apology given as soon as possible and in accordance with the Local Authority's 'Being Open' policy. Early meetings to discuss and address concerns in person are encouraged, and agreement will be gained regarding how best to remain in ongoing communication with those who have raised concerns.

2.5 **Maintaining confidentiality.**

Information provided by those raising a concern or complaint will be recorded carefully and securely by the person who first receives it. All staff have a duty to adhere to Local Authority guidelines and policies on confidentiality and data protection, and correct permissions should be sought before information is passed on to other parties (see section 11.4 on Consent).

2.6 **Offering compassion and credibility.**

It is very important that the accounts given by service users, carers and members of the public, of their experiences of Local Authority services are taken seriously and given credibility as people's real experiences. Those raising concerns or complaints should always be treated with respect, empathy and compassion. At the same time, staff members who are involved in a complaint should be given support and their own experiences taken seriously. The purpose of the complaints procedure is not to apportion blame, but to investigate situations fairly so everyone can learn from what has taken place and to achieve resolution.

3.0 **Accessing information about how to raise a concern or complaint**

3.1 Information on how to raise informal concerns or make formal complaints is given in the Local Authority Social Care Services Complaints leaflets.

3.2 Complaints information leaflets are made available in all resource areas, and are also downloadable from the Local Authority external website and intranet.

3.3 The contact number for the Customer Care Team is publicised.

3.4 Free copies of the leaflets should be sent out by the Children's Families and Adults Information Team or by the Customer Care Team on request.

3.5 The Customer Care Team have a duty to publicise a variety of initiatives (through which people can raise concerns informally or formally).

3.6 All staff should receive training during their induction and regular reminders in their personal appraisal sessions, about making the complaints process accessible to those they support, and their carers.

3.7 Information in other languages and formats is made available on request.

#### **4.0 Ensuring equity**

4.1 In accordance with the principles above the Local Authority takes seriously people's rights to raise informal concerns and formal complaints without their care, treatment or relationship with staff being compromised. All information given to service users, carers and the public about raising concerns and complaints should make it clear that people can expect not to be treated any differently as a result of doing so.

4.2 Complaints letters, investigation reports and notes of conversations relating to concerns/complaints should not be filed in Service User Case files, unless a specific item is of significant importance.

4.3 If it comes to the attention of any member of staff that a person's treatment is being compromised as a result of a concern or complaint being raised, they should report it immediately to the Customer Care Manager.

4.4 The Customer Care Team will record and report any incident of this nature to the Director.

#### **5.0 Defining 'informal concerns' and 'formal complaints'**

5.1 A concern or complaint is 'any expression of dissatisfaction that requires a response'.

5.2 If the complaint is about issues that are within the remit of the member of staff to address directly and promptly and the complainant is in agreement then it can be treated as an informal complaint. It is always advisable to ask the complainant if they would like the issues to be dealt with informally or formally.

5.3 It is how the person raising a concern/complaint would like it addressed that helps define whether the expression of dissatisfaction requires an 'informal' or 'formal' response. It is therefore not always the complexity or severity of a concern/complaint that defines its formality or informality.

5.4 The Local Authority recognises that many people choose to try local resolution through informal channels first, and then formally progress them if still dissatisfied. However, exceptions should be made in the case of serious or high risk charges of abuse or neglect, when staff or the Customer Care Manager should advise the person raising

concerns to register a formal complaint immediately. The Local Authority policies on the 'Safeguarding of Vulnerable Adults' should be followed where appropriate.

## **6.0 Raising informal concerns**

6.1 Informal concerns can be expressed to the organisation in many different ways. They can be raised as:

- Questions;
- Suggestions;
- Feedback;
- Requests for information;
- Comments and complaints.

6.2 The Local Authority encourages service users, their relatives and carers to bring their concerns openly to staff in person, on the phone, email or in writing. All staff members are expected to respond to and resolve these informal concerns as quickly and locally as possible, on a daily basis.

6.3 Many queries or minor disagreements can be resolved at this local level without the need for concerns to be registered as formal complaints.

## **7.0 Process for raising informal concerns**

7.1 Informal concerns can be raised by service users, carers and members of the public:

- In person to staff;
- By phone to staff members or by calling the Contact Centre (0345 045 5202);
- By email to [SocialCareComplaints@cambridgeshire.gov.uk](mailto:SocialCareComplaints@cambridgeshire.gov.uk) or [CustomerCare@cambridgeshire.gov.uk](mailto:CustomerCare@cambridgeshire.gov.uk);
- By post to staff teams in the area;
- By using the feedback system on the County Council's website;

7.2 The person listening to the informal concern raised will consider whether he/she can answer fully and appropriately, and where possible, take immediate action to resolve the concern.

7.3 If immediate action cannot be taken by the staff member who has heard the concern, he/she should refer it to the most appropriate person or team who can resolve the issues raised. A log should be taken of to whom the concern has been passed on, and the person raising the concern should be informed of who this is.

7.4 Once a concern has been resolved, the person raising the concern should be informed of the outcome and any learning should be communicated to the team or staff member's manager as soon as possible.

7.5 If it is not possible to resolve the concern informally with local staff members, the person raising the concern should be given information on local advocacy services and the formal complaints process. If a concern has not been resolved satisfactorily within a month, strong consideration should be given to progressing to the formal complaints process.

**8.0 Duties, roles and responsibilities for resolving informal concerns**

8.1 **All staff members**, wherever they work in the organisation, have a responsibility and duty to listen to the concerns that are raised with them by service users, carers or members of the public. Whenever appropriate, immediate steps should be taken by that member of staff or team at the point of contact to address the concern raised, or the concern should be promptly passed onto the most appropriate person or team who can help. The person raising the concern should be kept fully informed of who is dealing with it, and appraised of its outcome.

8.2 Individual **staff members** should record all serious informal concerns raised about the safety, quality or experience of services and highlight these to their managers.

8.3 **Service managers** should consider the learning from concerns raised and explore what further actions could be taken to improve services. They should ensure their staff teams deal with concerns promptly, openly and effectively. They should also discuss and monitor learning and actions regularly at team meetings.

8.4 The Customer Care Team has responsibility for keeping a record of enquiries received by them and that follow-up actions are taken.

8.5 **MP's and Councillors** have a duty to listen to the concerns raised by the members in their constituencies, and to pass these onto the Local Authority as soon as is reasonably possible.

8.6 Responses to complaints where a councillor has been involved can only be shared with the councillor when consent to share has been obtained from the complainant.

**9.0 Process by which Cambridgeshire County Council aims to make changes through informal concerns**

9.1 Every informal concern that the Local Authority receives will be regarded as an opportunity to improve services.

9.2 It is always the responsibility of the staff member who first receives the concern to act on it and pass on information as promptly as possible.

9.3 In the first instance, and where appropriate, local practical changes should be made which address the current situation as quickly as possible.

- 9.4 Secondly, the nature and scope of the informal concern should be assessed to learn whether procedural or strategic changes are required and whether these are of short, medium or long-term significance. These should then be raised with the appropriate person or body for action.
- 9.5 If the informal concern indicates serious malpractice, or that a vulnerable person is at risk, the concern should be logged with the SOVA team and an appropriate investigation begun immediately (see 'Safeguarding of Vulnerable Adults' and 'Safeguarding of Children' policies).
- 9.6 Council Officers should clearly document concerns raised and actions taken to resolve concerns. A record of informal complaints raised should be kept by each team. A record of actions taken locally to resolve concerns, and their outcome should be kept by each team.
- 10.0** **Process for monitoring compliance**
- 10.1 Written records should always be kept of informal concerns that have been raised with staff, and of subsequent actions taken. Service managers are responsible for ensuring that all staff members keep good records locally, but do not file information pertaining to a concern/complaint in a service user's case file. Local service audits on the quality of record-keeping should extend to informal concerns/complaints files.
- 10.2 Informal concerns that are logged through the Complaint Team will be recorded on the Complaints Database.
- 11.0** **Making formal complaints**
- 11.1** **What can a complaint be about?**
- 11.1.1 A complaint to the Local Authority may be about any matter reasonably connected with the exercise of its functions. The Local Authority is accountable for all the services it provides, whether directly from its own resources, or through contracts with other agencies, and it has a duty to investigate complaints about any aspect of these services. This policy refers to complaints about Adult Social Care.
- 11.1.2 If the complaint refers to a Local Authority policy, allocation of resources or the nature or availability of services then it is considered to be a representation. A representation will be investigated by a relevant manager and responded to by the appropriate Service Director.
- 11.1.3 Occasionally, the Local Authority might deliver a service in partnership with another organisation (e.g. NHS, Mental Health Trust). In these situations, the Local Authority will hold joint responsibility for ensuring a lead agency for conducting any complaints investigation.



11.1.4 If the Local Authority receives a complaint that relates wholly to services provided by the NHS Trust, the Customer Care Manager must within 5 working days of receipt ask the complainant if they wish the Local Authority to send the complaint on to the other organisation. If consent is given, the Customer Care Team must refer the case on as soon as is reasonably practicable.

11.1.5 The Local Authority has responsibility for services it commissions. A complainant can address a complaint about an independent service provider commissioned by the Local Authority either by complaining to the provider directly or by complaining to the Local Authority. In cases where the complainant has complained to both parties, the Local Authority will investigate and respond. There should also be a separate investigation carried by the independent provider.

## **11.2 What sits outside the official Adult Social Care Complaints procedures?**

11.2.1 If a complaint received indicates a need for referral for:

- An investigation under the disciplinary procedure (e.g. Local Authority 'Disciplinary Policy and Procedure')
- An investigation by one of the professional regulatory bodies
- An investigation of a possible criminal offence
- An investigation under the Safeguarding of Vulnerable Adults procedure.
- Legal proceedings or a claim for financial compensation.

11.2.2 Relevant Local Authority policies concerning any of the above apply, and immediate advice should be sought from the relevant Director, Manager or Human Resources Team. The Customer Care Team is not responsible for deciding whether to initiate any of the above investigations and will refer such cases to the designated authority.

## **11.3 Who may complain?**

11.3.1 A complaint may be made by:

- A service user
- Any person who is affected by, or likely to be affected by, an action, omission or decision of Cambridgeshire County Council if it is the subject of the complaint
- A person acting on behalf of another, where:
  - The person themselves has requested that they act as their representative and has provided consent for them to do so
  - The person themselves is unable, by reason of physical or mental incapacity, to make a complaint on their own behalf
- The person has died, and the representative is a relative or other person who, in the opinion of the Customer Care Manager, had or has sufficient interest in their welfare and is a suitable person to act on their behalf

- A Solicitor or Legal Representative on behalf of their client (see point 11.5 below)

11.3.2 If the Customer Care Manager believes that a person does not have sufficient interest in the person's welfare, or is unsuitable as a representative, he/she must notify the person to this effect, stating the Local Authority's reasons in writing.

11.3.3 Where a number of individuals share an area of concern and wish to make a formal complaint, they must access the Local Authority complaint procedure on an individual basis. Alternatively, they might wish to approach the Local Involvement Network groups (Healthwatch Cambridgeshire), or an advocacy service to raise issues with the Local Authority on their behalf.

11.3.4 Complaints received on behalf of a person living in Cambridgeshire and receiving services from Cambridgeshire County Council but funded by another Local Authority should be investigated by Cambridgeshire County Council jointly with the funding Local Authority.

Complaints received on behalf of a person living outside of Cambridgeshire and receiving services from another Local Authority but funded by Cambridgeshire County Council should be investigated by Cambridgeshire County Council jointly with the service providing Local Authority.

11.3.5 Complaints received on behalf of a person who is paying the full cost of their care where the payments are managed by the social care team will be investigated by the Council.

11.3.6 Complaints received on behalf of a person who is funding their own care privately, directly with the care provider, and there is no Local Authority involvement in that care should raise their concerns directly with the care provider. If they are dissatisfied with the response from the provider they have the right to take their complaint to the Local Government Ombudsman.

#### **11.4 When is consent required?**

11.4.1 Where a person makes a complaint on behalf of a service user, the Local Authority must first satisfy itself that the service user has provided the appropriate consent for the person to act as their representative, and for the release of any relevant personal information. It will also consider whether the third party has the relevant Power of Attorney.

11.4.2 Where the service user's consent is required to confirm that the person can act for them but withheld, the Local Authority's response to the complaint will be limited to that information which can be shared

without compromising the service user's right to confidentiality. This will be clearly explained to the person making the complaint and every effort will be made to be as open as possible.

11.4.3 Where physical or mental incapacity affects a service user's ability to make a complaint or to provide consent to a representative to act on their behalf the Customer Care Manager, in discussion with the relevant Senior Manager, and Information Governance Manager should agree what course of action should be taken. This should determine whether the complainant has sufficient interest to be considered a suitable representative. This decision will take into account the need to respect the service user's confidentiality and any previously expressed wishes about disclosure of information to third parties. It will also consider whether the third party has the relevant legal authority to make the complaint on behalf of the service user.

11.4.4 Where an urgent need to safeguard a vulnerable person is identified in a complaint raised by a representative, there may be a need to disclose information or to act prior to consent being received. If this is the case, the discussion and decision should be clearly recorded in the complaints file.

## **11.5 Complaints received from Legal Representative**

11.5.1 When a letter is received from a solicitor or legal representative, making a complaint on behalf of their client, the Customer Care Team should ensure that legal proceedings (Court Action) have not been commenced. If this is the case, the correspondence must be passed through to the Local Authority Legal Department.

11.5.2 If no legal proceedings have been commenced, the complaint can be taken through the formal complaints procedure.

11.5.3 If a member of staff, employed or commissioned by the Local Authority receives correspondence from a legal representative, this must be passed to the relevant Head of Service, who will ensure that a response is sent.

In the event, that the legal representative remains unhappy with the response and the Head of Service thinks it is appropriate, the legal representative should be advised to take the complaint through the formal complaints process.

11.5.4 This will ensure that the complaint can proceed through the Complaints Process which will allow the complainant to take their complaint to the Local Government Ombudsman.

## **11.6 When can someone complain?**

11.6.1 Complaints are best made as soon as possible after an event has occurred, as investigation is likely to be most effective when memories are fresh.

- 11.6.2 The time limit for making a formal complaint is:
- Twelve months from the date on which the matter which is the subject of the complaint occurred<sup>1</sup>
  - Twelve months from the date on which the subject of the complaint came to the notice of the complainant<sup>2</sup>
- 11.6.3 Where a complaint is made after the expiry of this period, the discretion to vary the time limit will be used sensitively and with reference to good practice guidelines. Having regard to the context and specific circumstances, the Customer Care Manager may decide to carry out an investigation if he/she is of the opinion that:
- The complainant had good reasons for not making the complaint within the usual period
  - It is still possible to investigate the complaint effectively and efficiently, notwithstanding the time that has passed
- 11.6.4 Where possible, the Customer Care Manager might also arrange for alternative methods of resolution to be offered outside of the formal complaints process (e.g. a meeting with staff) in view of there still being actions that could be taken, or important learning to be shared.

## **12.0 Process for managing formal complaints**

### **12.1 How a complaint is received**

- 12.1.1 Formal complaints can be made verbally or in writing (including electronically), to any member of staff, including the Customer Care Manager and Chief Executive.
- 12.1.2 Where a complaint is made verbally, the Customer Care Team must make a written record of the subject matter and the date of the complaint. This should be copied to the complainant in order for them to confirm that the issues documented are correct.
- 12.1.3 The Customer Care Team will assist those who wish to make a written complaint, but feel unable to do so. They will also provide information about local Independent Advocacy services as an additional or alternative form of support.
- 12.1.4 Where a complaint is made in writing, it must be clearly stamped with the date it was received by the staff member or Customer Care Manager.
- 12.1.5 A formal letter of acknowledgement (Appendix 1) should be sent to the complainant within three working days<sup>3</sup> of the Local Authority's receipt of the complaint. A copy of this letter should be retained by the

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<sup>1</sup> A timescale of 12 months from the date of the incident was introduced under the regulations with effect from April 2009.

<sup>2</sup> As above: the timescale will be 12 months from the subject of the complaint coming to the attention of the complainant.

<sup>3</sup> Previously 48 hours

Local Authority Customer Care Team and should record details of the complaint onto the Local Authority's complaints management software.

- 12.1.6 If a formal complaint is received and addressed at local service level without passing through the Complaints Department, it is the responsibility of the staff member who has received the complaint to ensure that a copy of the complaint and any acknowledgement is sent as soon as possible informing the complainant that the complaint has been sent to the Customer Care Team .
- 12.1.7 A copy of the complaint should be sent to the relevant Head of Service and Service Manager in order for an appropriate Investigation Manager to be appointed.
- 12.1.8 Where a complaint is received which does not relate to Cambridgeshire County Council's own services, it should be passed as promptly as possible to the Customer Care Team for appropriate redirection. If the written complaint relates to a health body, or another organisation, the Customer Care Team will first obtain the consent of the complainant before forwarding the information for investigation.
- 12.1.9 Where a complaint is received that contains issues relating to both Adult and Children's services, the Customer Care Managers from both Adult and Children's services will meet and discuss the individual circumstances of the case. Wherever possible a joint response will be provided, whilst bearing in mind the different statutory timescales. The lead service accountable for the response will be agreed and the complainant will be informed about what to expect, when they should receive a response and from whom.
- 12.1.10 Timeframes relevant to the initial response in the complaints process are specified at Appendix 2  
If there are likely to be any delays or reasons why a joint response will not be possible the complainant will be informed at the earliest opportunity

## **12.2 How the complaint is investigated**

- 12.2.1 Central to managing a complaint efficiently and effectively is preparing the appropriate level of investigation for the nature of complaint raised. In discussing the initial scope and timeframes of the investigation with the Investigation Manager, the Customer Care Manager will risk-assess the complaint. The Customer Care Manager will also give a judgement on the level of investigation that would seem proportionate to the severity and nature of matters raised (see Appendix 3). All reasons for decisions made should be clearly documented.
- 12.2.2 Once an initial assessment of an appropriate level of investigation is

completed, the Investigation/Customer Care Manager should make early arrangements to speak with the complainant either in person or on the phone. At this meeting, the Investigation/Customer Care Manager will aim to gain a full picture of the area and scope of the complaint from the complainant's experience.

- 12.2.3 The Investigation/Customer Care Manager will discuss with the complainant:
- What outcomes s/he is hoping to achieve and how s/he will be informed whether these are achieved.
  - How s/he would like to be communicated with and updated throughout the investigation.
  - A shared understanding of how the investigation will be conducted.
  - A mutually acceptable timeframe for the investigation and response.
- 12.2.4 The Investigation/Customer Care Manager will carry out the investigation and will write a report/draft response letter, including recommendations for learning and action (where appropriate) and send this to the Customer Care Team along with copies of the investigation's evidence. The Customer Care Manager will quality audit the draft response and if necessary go back to the investigating manager for further information or clarification. The Customer Care Team will ensure that all aspects of the initial complaint have been answered
- 12.2.5 The full response will be sent from the Customer Care Manager/Officer.
- 12.3 Independent Investigations**
- 12.3.1 For complaints of a particularly serious and or complex nature, it may be deemed appropriate to commission an independent investigator to carry out the investigation. Any such decision will be made by the Customer Care Managers in consultation with the appropriate Head of Service and reported to the relevant Service Director.
- 12.3.2 When it is agreed that an independent investigation is the most appropriate way to address the issues an independent investigator will be commissioned to carry out the investigation. Any such request may be declined if more appropriate and cost effective means of resolution are available (e.g. Investigation by an appropriate Manager, meeting, further written response mediation).
- 12.3.3 If an independent investigation is agreed the Customer Care Manager will confirm this to the complainant in writing. Consent for the Independent Investigator to have access to personal information relating to the complaint will be requested from the complainant and/or other persons involved in the complaint. The investigation can

proceed only when consent from all relevant parties has been obtained.

12.3.4 The Customer Care Manager will then appoint an Independent investigator.

12.3.5 The Customer Care Manager will inform all relevant staff concerned with the complaint that an Independent investigator has been appointed.

## **12.4 The Independent Investigator**

12.4.1 The Independent Investigator will not know the complainant or the person represented by the complainant. They will not work with or have worked with the people or in the situation that is being complained about. In all cases the Independent Investigator will be from outside Cambridgeshire County Council.

12.4.2 The role of the Independent Investigator is to investigate the complaint, record their findings and conclusions, and make recommendations about what they believe should be done to resolve the complaint.

12.4.3 An advocate will also be identified if a vulnerable person is to be directly involved during the process of investigation.

## **12.5 Independent Investigation**

12.5.1 The first task of an investigator is to agree with the complainant the complaints to be investigated (This is referred to as the 'Schedule of Complaint').

12.5.2 The Investigator will then need to see any information held by the Council, which is relevant to the complaint, and will talk to the people who are involved. This is why consent ( as set out in 11.4) may be required before an investigation can start.

12.5.3 If the Investigator feels that there are some parts of the complaint that cannot be considered, they will discuss this with the Customer Care Manager who will write to the complainant to confirm which parts will not be investigated and explain why.

12.5.4 The investigation can take up to 3 months to complete, in extenuating circumstances this can be extended. In such cases the Customer Care Manager will write to the complainant to explain why the investigation is taking longer than expected, an expected date for completion will be included in the letter. However, the Investigator should make every effort to conduct the investigation quickly. The written investigation report must be sent to the Customer Care Manager within 10 working days of the completion of the report. The Customer Care Manager will pass the report to the relevant Director/Head of Service for consideration.

- 12.5.5 The Customer Care Manager will write to the complainant within 3 days of receipt of the report, to confirm that the report has been received and passed to the relevant Senior Manager.
- 12.5.6 The Director/Head of Service will write to the complainant to explain what they have decided with regard to the recommendations in the report. Please note that the Director/Head of Service may choose not to accept one or more of the recommendations in the report. Should this be the case an explanation of the reasons for not accepting the recommendation(s) will be given.
- 12.5.7 The Director/Head of Service will also make a decision about whether to provide the complainant with a copy of the full report. It may be that the Director/Head of Service sends an abridged report(s) if the full document(s) contain details of third party or disciplinary matters which the complainant is not entitled to know, or sensitive information which it is not appropriate to share. If the decision is made not to send the complainant the full report the Director/Head of Service will explain their reasons when they write to the complainant.
- 12.5.8 The Director/Head of Service's letter will include what the next step in resolving the complaint is, should the complainant remain dissatisfied with the proposals specified in the letter
- 12.5.9 On receipt of the Director/Head of Service's letter the complainant should decide whether or not they are satisfied with the findings. In the event that the complainant remains dissatisfied they should notify the Customer Care Manager of the reasons why.
- 12.6 When is the complaints procedure suspended?**
- 12.6.1 Some complaints will identify information about serious matters relating to staff performance and behaviours, and it may be necessary to consider disciplinary procedures. Where it is decided that disciplinary action is appropriate, the complaints investigation into these aspects should be suspended until the disciplinary process has been completed. In this event, the complainant must be informed that an internal inquiry is proceeding, but any issues that relate to the disciplinary process must remain confidential to the Local Authority.
- 12.6.2 The complaints procedure should cease if a complainant explicitly indicates in writing, an intention to take legal action, or to make a request for financial compensation in respect of the complaint. The complainant and any person/s identified in the complaint should be notified immediately of the suspension of the complaints procedure.
- 12.6.3 Where a complaints investigation reveals evidence of potential negligence or the likelihood of legal action, the Customer Care Team should inform and seek advice from those responsible for risks and claims management in the Local Authority Legal Department.



- 12.6.4 Where a criminal investigation is indicated, the complaints procedure should be suspended immediately and the police informed.
- 12.6.5 Regrettably, on occasion, it is necessary to categorise a complaint or complainant as being persistent and unreasonable. In these circumstances the procedure to be followed is in Appendix 6 in line with the Council Persistent Complainant Policy and would replace standard complaints procedures.
- 12.6.6 There are occasions when the nature and volume of communication requires the Council to introduce a communication protocol specific to the individual. This protocol enables the Council to effectively manage the volume and nature of contacts.
- 12.7 Senior Manager Review**
- 12.7.1 The Customer Care Manager will agree with the complainant the issues in the initial response which the complainant feels have not been addressed fully and any actions that could be taken to address the issues.
- 12.7.2 The Customer Care Manager will explore what is the most appropriate next step with the Head of Service and confirm this with the complainant
- 12.7.3 If the next step is confirmed as a Senior Manager Review then the Customer Care Manager will discuss the complaint with the Senior Manager who is asked to carry out the review.
- 12.7.4 When carrying out a review of a complaint the Senior Manager will:
- Consider the original complaint and response
  - Decide if each point raised in the complaint has been addressed fully and fairly
  - Where necessary carry out further investigation, this may include reviewing records, interviewing staff and or speaking with the complainant.
  - Identify any corrective action necessary to address the issues raised.
- 12.7.5 Once the review is completed the Senior manager will write to the complainant:
- Outlining the actions taken
  - Explaining the reasoning for any decisions taken
  - Clearly stating whether or not the complaint has been upheld
  - Identifying any learning points and changes to process/practice to be implemented as a result of the complaint
  - Stating the next step in the process e.g arranging a complaints meeting or for the complainant to approach the Local Government Ombudsman
- 12.7.6 A senior manager review should be completed within 3 months

working days of the senior manager receiving the request to review the complaint.

- 12.7.7 If for any reason the review is likely to take longer than 3 months then the Customer Care team will write to the complainant informing them of the reasons for the delay and provided a date that they can expect the review response by.

## **12.8 Beyond Local Resolution**

Where a complainant remains dissatisfied with the outcome of the formal local resolution process, the Customer Care Manager or Investigation Manager will contact the complainant to identify if there are any further actions the Local Authority could take regarding outstanding concerns. For example, it might be appropriate for there to be a further meeting with the service, or some additional recommendations for implementation.

### **12.8.1 Meetings**

- 12.8.1.2 At any stage of the complaints process a meeting to discuss and resolve the issues may be offered. These meetings may be between the complainant and the Team manager or involve others such as the Customer Care Team.

- 12.8.1.3 The decision to offer a meeting will be agreed with the Team Manager, Head of Service and the Customer Care Manager.

- 12.8.1.4 Meetings will only be offered if there is a clear purpose and would prove beneficial to achieving a resolution to the complaint.

### **12.8.2 Local Government Ombudsman (LGO)**

- 12.8.2.1 Where the Local Authority considers it has acted as fairly and proportionately as possible and that further local resolution measures are not possible, the Customer Care Team will provide the complainant with information on how to appeal to the Local Government Ombudsman. The Local Government Ombudsman will offer independent scrutiny and review of the complaint and the Local Authority's handling of it. This represents the second and final stage of the formal complaints process.

- 12.8.2.3 The Local Government Ombudsman will liaise with the Customer Care Team for the information it requires. The Local Authority is responsible for fully and promptly cooperating with these requests.

- 12.8.2.4 Following review, the Local Government Ombudsman will inform the Local Authority of the outcome of their investigation, which may be that:

- The complainant has been provided with a written detailed explanation about their complaint.
- The Local Authority is requested to take further action to

resolve matters.

- A formal investigation has taken place and the Local Authority is provided with a detailed report about the case.

### **13.0 Duties, roles and responsibilities for managing formal complaints**

#### **13.1 Chief Executive**

The Chief Executive is the overall responsible officer for Cambridgeshire County Council.

#### **13.2 Executive Director (Children, Families and Adults)**

Has responsibility for overseeing adult social care complaints.

#### **13.3 Service Director of Adult Social Care and Service Director of Older People and Mental Health, Children's Families and Adult Services**

- Communicate areas of concern/learning arising through complaints to their respective Directorate Meetings
- Provide support and advice to the Customer Care Manager on operational matters

#### **13.4 The Customer Care Manager**

- Has devolved responsibility for the overall operational management of the Complaints Service.
- Has devolved responsibility for the investigation and signing of formal response letters, unless this is delegated to the Customer Care Officer or another manager.
- Monitors compliance with complaints regulations and wider policies and guidelines.
- Collates complaints data for analysis in reports to Board.
- Manages the Customer Care Team.
- Is responsible for developing complaints strategies, systems and processes, including complaints training together.
- Takes a lead in the management of complex or persistent complaints cases.

#### **13.5 The Customer Care Officer**

- The day-to-day operational activity of the Complaints Department.
- Acknowledging the receipt of formal complaints within 3 working days, and coordinating timeframes to ensure the final responses are sent out within 20 working days unless the complaint is complex and or involves several organisations.
- Working with investigation managers to ensure all aspects of a complaint have been answered.
- Signing and sending the formal response letter where this is delegated by the Customer Care Manager.
- Recording data about concerns, informal complaints, compliments and complaints on the complaints database.

13.6

**Head of Service and their Management Teams**

- Ensuring the complaints process is implemented in their areas of responsibility, including maintaining up-to-date complaints information and publicity materials.
- Appointing suitable individuals to be investigation managers.
- Informing any member of their team if a complaint has been made against them.
- Providing support to staff when investigating, or on the receiving end, of a complaint.
- Ensuring good lines of communication with the Customer Care Team and sending on any records of files relating to complaints.
- Providing the Customer Care Team with draft responses to the complaint.
- Ensuring that agreed actions following complaints responses are implemented, monitored and followed-up.
- Attend regular complaints training sessions.

13.7

**Investigation Managers**

- Carrying out objective and thorough investigations.
- Updating the Customer Care Team on progress made, and timeframes.
- Maintaining clear and confidential records, evidence and notes of all investigation work.
- Alerting appropriate senior managers and directors, to serious areas of concern that might arise during investigations and making recommendations as appropriate.
- Writing a draft response for the Customer Care Manager.
- Maintaining and refreshing training on complaints and leading investigations.

13.8

**All Local Authority staff**

- Are responsible for reporting complaints promptly and accurately.
- Are required to be aware of this policy and have knowledge of how to aid someone to make a formal complaint.
- Are expected to try and resolve the complaint as close to its source as possible, as soon as possible.
- Are expected to cooperate fully and openly with any complaints investigation, and say sorry for mistakes when they are made.
- Are expected to learn from complaints and implement improvements as required.

14.0

**Process by which the organisation aims to make changes as a**

### **result of formal complaints**

- 14.1 Every formal complaint that the Local Authority receives should be regarded as an opportunity to learn and improve services.
- 14.2 On completion of an investigation, the Investigation Manager should send the investigation report, evidence and draft response letter to the Customer Care Team. The response should clearly state the actions necessary to prevent a similar situation occurring again. The response should:
- Clearly highlight specific actions to be taken as a result of the complaint
  - Identify who will take these actions
  - Give firm timeframe for completion of the actions
- 14.3 The nature of actions recommended should reflect the level and scope of the complaint and be proportionate. Care should be taken to focus on actions that try to restore complainants to the position they were in prior to making a complaint, in so far as this is possible. Recommendations should consider the range and integration of options available: what nature of procedural, strategic, information or governance changes are required and whether these are of short, medium or long-term significance (Appendix 1 for Informal Concerns).
- 14.4 It is the responsibility of the Investigation Manager to ensure that any learning points from the complaint are developed with local ownership, and actions are achievable and likely to be effective. A copy of the response should also be sent by the Investigation Manager to the relevant Head of Service and to the Customer Care Team.
- 14.5 The Customer Care Team will collate information gained through formal complaints and highlight themes, trends and qualitative information to discuss with Senior Management on a quarterly and annual basis.
- 14.6 The Customer Care Team will bring to the attention of the relevant Senior Manager any trends or themes within a particular area.
- 14.7 The Customer Care Team should be notified if any area in Adult Social Care is made aware of the potential for complaints because of action that has been taken. For example, changes in Policy or Procedures and action that has been taken in regard to Care Providers.

### **15.0 Learning From Complaints**

- 15.1 The Local Authority is committed to promoting a culture of learning and responsiveness so that information about service user's experiences of services is used to help improve the quality of its staff, and its services.

- 15.2 Anonymised concerns and complaints data will be used as part of staff training sessions to raise the awareness of staff of the importance of people's experiences as part of service quality.
- 15.3 Following a formal complaint where there has been specific learning, the team manager must ensure that this is implemented within their team.
- 15.4 The Customer Care Team should record learning from individual complaints and inform Heads of Service of what learning has been gained from complaints in all areas of Adult Social Care Services.
- 15.5 For serious and complex complaints learning should be monitored at monthly Management meetings and, where appropriate, highlighted at Team meetings.
- 15.6 Information on complaints management performance (i.e. timeframes, outcomes vs. individual complaints plans, successful resolution) should be reported quarterly to the Adult Social Care Management Team.
- 15.7 It might be appropriate on occasion for a specific group to monitor the progress of the implementation of learning from a particular complaint. Consideration should be given to preservation of anonymity in these circumstances.
- 15.8 The Local Authority's Annual Report will include information on customer Care performance data and learning, as well as service user feedback.
- 16.0 Complaints Management communication**
- 16.1 Good complaints management requires efficient and appropriate communication with other departments, organisations or policies in a timely way. The following points outline some of the most common areas requiring collaboration.
- 16.2 **Complaints that involve both children's and adult services.**
- Complainants making complaints that relate to both children's and adult services will receive one response from the Council. The complaint will be investigated by the relevant teams. The lead team will be determined by the nature of the complaint. If the complaint is predominantly about adult services then adult social care will manage the complaint, if on the other hand the majority of issues are children's issues then the children's complaint team will lead. The complaint will be responded to within the timescales of the lead teams policy
- 16.3 **Access to Records and Data Protection Act 1988**
- Requests by complainants for access to records are to be referred to the Information Governance Team.

Complaints regarding potential breaches of the Data Protection Act (relating to disclosure, accuracy, or storage of records) should be addressed to the Information Governance Officer. Following local resolution, if the complainant is dissatisfied with the outcome, the complainant should refer their case to the Information Commissioner for an independent review.

**16.4 Freedom of Information Act (FOI)**

Complaints about lack of compliance with the FOI Act should be put in writing to the Information Governance Manager.

**16.5 Independent Advocacy groups**

The role of independent advocacy groups is crucial to the fair and thorough managing of the complaints process. The Independent Complaints Advocacy Service (ICAS) assist people with their NHS complaints and Voiceability and Age UK provide support for adults and older people. Advocacy can:

- Help people deal with the complaints process (i.e. writing letters, accompanying clients to meetings).
- Refer people to other relevant agencies regarding their complaint.
- Meet people at home or in a place they feel comfortable.
- Help represent people when they find it difficult to express what they want to say.
- Help people explore their options for resolution and their potential outcomes without bias.

**16.6 Partnership organisations  
(especially the NHS Trusts and the Learning Disability Partnership)**

The new complaints system brings health and social care complaints processes together into one system. Where a complaint is received regarding a service that is delivered through a partnership arrangement, an early decision should be taken by the two organisations as to which one of the parties is most appropriate for registering and responding to the complaint. Usually, the organisation that directly employs/manages the staff or service in question will take the lead in a coordinated handling of the complaint, but both are expected to provide the necessary information as quickly as possible, and a joint meeting with the complainant is sometimes helpful.

Where the Local Authority receives what appears to be a cross-boundary complaint (i.e. from someone receiving services from both health and social services), the Customer Care Team should contact the complainant for their agreement to copy their complaint to the other organisation involved.

**17.0 Complaints records management**

- 17.1 When a complaint is registered, the Customer Care Team will open an electronic complaints file, each case being clearly marked with an individual reference number allocated by the Complaints Database.
- 17.2 The files shall maintain a tidy and complete record of correspondence, decision-making, meeting notes and telephone conversations that form part of local resolution activity. The file should contain a front sheet which provides an up to date synopsis of the complaint. Hard copies should be made of electronic documentation.
- 17.3 Electronic individual complaints folders will be maintained on the Local Authority secured drive with restricted access.
- 17.4 The paper files should be kept in a secure environment and if it is absolutely necessary for them to be taken out of the Complaints office (i.e. to complaints meetings), the utmost care should be taken to keeping them safe and confidential, in line with the Local Authority policies on record keeping, Information Governance and Data Protection.
- 17.5 Copies of complaints material should not be filed in the Service user's records. Information about complaints **must** be stored electronically in the 'Complaints' folder –and **not** recorded, or referred to on SOC 902 (diary sheet) forms.
- 17.6 Only Team Managers have access to the 'Complaints' folder in WISDOM. Team Managers :
- are responsible for scanning complaints received by their teams and storing them in the 'Complaints' folder in WISDOM.
  - may delegate responsibility for scanning complaints to a restricted number of identified administrative team staff.
  - must ensure that, when delegating responsibility for scanning to identified administrative staff, administrative staff understand the enhanced confidential nature of the information they are scanning, and the requirement not to share, or discuss, this information within their teams.
  - May share complaints information with care managers if they consider it appropriate and necessary.
- 17.7 Complaints files will be kept in the office for one year after closure, and then archived in accordance with the Local Authority Retention and Destruction policy. (See Retention Policy in Appendix 5).
- 17.8 In accordance with the Data Protection Act 1988, complainants can apply for access to their complaints files. Requests for access should be put in writing to the Data Protection and Information Governance Officer.

**18.0 Complaints training**



- 18.1 The Customer Care Team can be approached at any stage for training and support in handling informal concerns and formal complaints. Investigation Managers should request support for specific cases they are working on.
- 18.2 Basic training should be provided to all new staff at induction, explaining their role in contributing to an open culture for responding to, and learning from informal concerns and formal complaints, and on how to support service users and carers to access the formal complaints procedure.
- 18.3 More detailed training on complaints and how to lead, manage, investigate and respond to formal complaints is to be provided to all Team Managers by Cambridgeshire County Council's Adult Social Care Customer Care Team.
- 18.4 It is the responsibility of all managers to ensure that staff are aware of the, (The Adult Social Care Complaints Policy, (Resolving Concerns and Complaints)) and their access to training in this area.

## **Appendix 1**

### **GUIDELINES FOR ACKNOWLEDGEMENT AND RESPONSE LETTERS:**

The Acknowledgment letter should set out the detail of the complaint as discussed/agreed/understood. For example:

Thank you for discussing the details of your complaint with me and please accept my apologies that you have been placed in the position of having to make a formal complaint.

My understanding of your complaint is as follows:

*List details of complaint*

If this is not correct or you wish to add anything further to your complaint I would be grateful if you could please contact me.

In the meantime ..... will investigate the issues you have raised and I will write to you with a response in due course. Normally we allow 20 working days to investigate and respond to a complaint. If there is a delay for any reason, we will of course notify you.

Yours sincerely

### ***Suggestions for the main text in responses***

As I understand it, the issues you raised in your complaint are as follows:

(Name) (The investigating manager) has carried out a careful investigation of your concerns and I want to outline to you the findings and action we have taken.

During the investigation (name) has ... interviewed relevant staff / reviewed incident sheets / reviewed relevant records / sought advice etc.....

As a result of the investigation we have taken the following action – specify action- to avoid this happening again:

Once again, may I express my regret that you have found it necessary to make a complaint. I do hope I have explained things fully. It may be that there are some points that you would like to discuss further or that it would be helpful to meet. Please do let me know if you would like me to arrange this for you.

### ***Additional text***

The Customer Care Team will add additional text to the final response letter to ensure that the Local Authority fulfils their obligation to explain to the

complainant that they have a right to appeal to the Local Government Ombudsman, if they remain dissatisfied with the Local Authority's efforts to resolve their complaint.

## Appendix 2

<p><b>5. Acknowledging and registering formal complaint (within 3 working days)</b></p> <ul style="list-style-type: none"> <li>- Customer Care Team register complaint on Complaints Database within 3 days</li> <li>- Complaint is sent to relevant Service Manager, requesting an investigation. The complaint should also be copied to the relevant Head of Service.</li> <li>- Letter is sent to the complainant acknowledging safe receipt and providing information on timeframe for formal response (as agreed) CHECK THAT CONSENT HAS BEEN RECEIVED IF APPROPRIATE.</li> </ul>
<p><b>5. Preparing the complaints investigation (within 1 week)*</b></p> <ul style="list-style-type: none"> <li>- If necessary, Investigation Manager discusses and agrees scope of investigation with Customer Care Manager ( what records and interviews will be needed; timeframes for completed report)</li> <li>-</li> </ul>
<p><b>5. Complaints Discussion (within 10 days)*</b></p> <ul style="list-style-type: none"> <li>-</li> <li>- Phone discussion to be held with complainant to listen to full account of complaint, ask questions for clarification and offer empathy. Discussion held about desired outcomes of the complaint, and mutual expectations, timeframes and methods for communication clarified.</li> </ul>
<p><b>5. Investigation (within 14 – 20 days)*</b></p> <ul style="list-style-type: none"> <li>- Interviews conducted; notes examined; policies reviewed</li> <li>- Further questions addressed with Customer Care Team</li> <li>- Ongoing communication with Customer Care Team about gaps, or further questions needing answers</li> <li>- Full report compiled by Investigating Manager</li> <li>- Initial response letter drafted by Investigating Manager and sent to Customer Care Manager</li> <li>- Action plan developed for follow up actions required</li> </ul>
<p><b>5. Response (within 25 days)*</b></p> <ul style="list-style-type: none"> <li>- Report, draft letter, investigation evidence and action plan sent to Complaints Dept. by Investigating Manager.</li> <li>- Draft letter templated and reviewed by Customer Care Manager,</li> <li>- Action plan finalised</li> </ul>

## Appendix 3

<b>Different levels of formal investigation</b>
<p>The below levels offer some broad criteria for helping assess the scope and timeframes for formal complaint investigations, following their formal risk assessment. This categorisation helps to ensure that the right stakeholders are involved early on in the process, and that the appropriate level of scrutiny</p>
<b>Level one</b>
<ul style="list-style-type: none"> <li>- The complaint is about one, or only a few issues, that are relatively straight forward to investigate and quick to fix (concerning factual matters and specific actions).</li> <li>- The complaint does not involve more than one service area, and only one, or a few individuals.</li> <li>- The complaint concerns areas of low risk with no foreseeable complications.</li> <li>- The investigation might not require a discussion with the complainant and should take no more than a day or two to complete.</li> <li>- The complaint response should be sent out promptly.</li> </ul>
<b>Level two</b>
<ul style="list-style-type: none"> <li>- The complaint involves more than one issue, of medium risk and complexity.</li> <li>- The investigation might involve more than one service team, or organisation, to investigate concerns.</li> <li>- There might be few practical actions that could be taken immediately to help resolve the complaint.</li> <li>- The relevant records might be full and complex to review.</li> <li>- The investigation manager might require 2 – 3 weeks carry out all necessary interviews.</li> </ul>
<b>Level three</b>
<ul style="list-style-type: none"> <li>- The complaint concerns matters of very high risk and/or many different and complex issues.</li> <li>- It might involve more than one organisation, and certainly more than one individual.</li> <li>- Some of the issues raised might put great personal strain on the investigation manager, and the complainant. In situations of likely conflict, mediation might be required.</li> <li>- It might not be possible to complete the investigation within 20 days, and an extension to the timeframe might need agreeing from the outset.</li> <li>- An independent review might be required, and the records and notes might be extensive.</li> <li>- Actions might have significant implications for governance, or quality of care and there might be a need to monitor the individual case.</li> </ul>