

Adult Social Care Services

Complaints and Feedback Policy and Procedure

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1. Introduction

Bath and North East Somerset Council is committed to providing good quality services to adults receiving support through adult social care and learning disabilities services (the Services). The Council is also committed to finding ways to improve its services and welcomes all feedback from service users, their family members, and carers. The feedback, which can be given in the form of a concern, comment, compliment, or complaint, is used to monitor the quality and effectiveness of the services.

2. Aims and Objectives

The aim of this procedure is to explain how feedback, including complaints, will be received, recorded and responded to in order to put things right when they have gone wrong and ensure the continuing improvement and development of service delivery.

The Council will treat all information received confidentially in line with GDPR and the Data Protection Act 2018 and view all correspondence as positive interaction from its customers with the aim of resolving all complaints and concerns in the most appropriate way.

3. Equality and Diversity

Bath and North East Somerset Council is committed to equality of opportunity for the whole community and believes that the diversity of the community is a major strength which contributes to the social and economic prosperity of the area. The Council commits to working within the Equality Act 2010 to ensure that no resident of, or visitor to the area, job applicant, employee or other person associated with the Council is treated inequitably or in an unlawful or unjustifiably discriminatory manner.

No person providing feedback to the Council in the form of a comment, compliment, concern or complaint will be discriminated against for doing so. This means there will be no negative repercussion as a result of a complaint.

4. Legal Context

The Council has a duty to handle complaints under:

The Local Authority Social Services and NHS complaints (England) Regulations 2009.

<http://www.legislation.gov.uk/ukxi/2009/309/contents/made?view=plain>

The Local Authority Social Services and NHS Complaints (England) Amendment regulations 2009

<http://www.legislation.gov.uk/ukxi/2009/309/contents/made?view=plain>

in relation to social services functions or any function carried out by the council under arrangements made between it and an NHS body under section 75 of the NHS Act 2006

<http://www.legislation.gov.uk/ukpga/2006/41/section/75>

This is supported by “listening, responding, improving: a guide to better customer care”

http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/dh_095408

The Care Act 2014 guidance states that people using care and support must always have a means of redress against the local authority for how any of its functions under Part 1 of the Act are carried out.

<https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

5. Definition

For the purpose of this procedure the Council considers the definition of a complaint to be:

“An expression of dissatisfaction about the Council’s action or lack of action or about the standard of a service, whether the action taken or the service was provided by the Council itself or by an organisation acting on behalf of the Council”.

6. Arrangements for managing adult social care complaints

Adult social care includes all forms of personal care and practical assistance provided for people in need, aged 18 and over. This could be because of age, illness, disability or a range of other circumstances.

The services covered include:

Assessments carried under the Care Act 2014

Provision of equipment

Help in the home with daily living

Day Centres

Residential care

Home adaptations

Support for carers

Learning Disability Services

Calculation of the assessed weekly charge

DOLS and Best Interest decisions

An Approved Mental Health Professional

When someone has a concern about a service provided by the Council, whether they are in receipt of services or supporting someone who is, they are encouraged to raise their concerns as soon as possible to give the service an opportunity to resolve the problem.

The best way to do this is to talk to the worker or ask to speak to their manager. If this doesn't resolve the concerns, then the complaint can be raised by any of the methods set out at the end of this procedure.

The Council also has arrangements in place with local health providers, including the Avon and Wiltshire Mental Health Partnership Trust, to ensure complaints which cover both health and social care issues receive a co-ordinated response. The complainant should not need to explain their complaint to more than one agency.

The complainant will be asked for their consent to share the complaint details before any information is shared with the appropriate health agency. The involved agencies will agree which complaints manager will hold responsibility for coordinating the response and will remain the single point of contact for the complainant. The complainant will be informed and given contact details.

The Council also deals with complaints about organisations which provide services on its behalf or social care services which have been arranged by the Council on behalf of the individual service user, such as care in the home or residential care.

Where the individual has arranged and pays for the care themselves, they will need to make the complaint to the care provider. Once the provider's complaints procedure has been exhausted, the complaint can ask the Local Government and Social Care Ombudsman to review it.

7. Compliments and comments

The Council welcomes comments or suggestions from service users about the services. They are a valuable indicator of good practice and what works well for service users and their families and carers. Comments or suggestions can be made by the service user or their representative.

Compliments will be shared with individual staff members and their manager so they know their work has been recognised.

8. Timescale for making a complaint

For a complaint to be considered, the complaint should be made to the Council within 12 months of the issue or incident occurring. Complaints can be considered outside this timescale if circumstances, such as illness, indicate that it would have been difficult to make the complaint earlier. The

Council must consider that it is still possible to consider the complaint effectively and fairly.

If the complaint cannot be considered because it falls outside the timescale this will be explained to the complainant in writing.

9. Who can complain:

- Any person who receives or has received services provided or commissioned by the council, this includes any person likely to be affected by the action, omission or decision of the council.
- A complaint can be made by the service user or a representative acting on their behalf. The representative could be an advocate or a relative who holds Lasting Power of Attorney. A representative can also act on behalf of someone who has died or someone who has been deemed to lack capacity within the Mental Capacity Act 2005.
- It is the Council's responsibility to decide if the person's representative has sufficient interest in the service user's welfare to act on their behalf. Wherever possible the council will seek consent from the service user; should a decision be made that the representative is not acting with the consent or in the best interests of the service user they will be notified of this in writing.

10. What is not covered within this procedure:

The complaints procedure does not apply when:

- the person wishing to complain does not meet the requirements of 'who may complain' and is not acting on behalf of such an individual
- The complaint is made by an employee or former employee relating to their employment
- A complaint relating to the same subject matter which has previously been fully investigated by the council
- The same complaint has been fully investigated by the Local Government and Social Care Ombudsman
- A complaint made by a person who has arranged and is paying for their own care. They will be directed to the care provider's complaints procedure.
- A complaint made by a person about the quality of care they are receiving which they purchase using the direct payments scheme.
- A complaint made about a legal action or decision or a matter that is before the Court.

11. Safeguarding Adults

On receipt of a complaint, if the Complaints and Data Protection Team identify a concern that they consider could be a safeguarding concern, the complaint will be referred to the appropriate safeguarding team for a decision.

Where it is decided that the safeguarding process will be initiated, the complaints procedure is suspended until the safeguarding process has been concluded.

12. Freezing decisions

If the complainant is challenging a decision which will result in a change to the service, including the service ending, the Principal Social Worker will be asked to consider if the proposed change should be suspended or delayed whilst the complaint is considered.

Where a decision to suspend or delay an action is made, the complainant and/or the service user will be notified of this in writing.

13. Disciplinary matters

If, on receipt of a complaint, there is an indication that the Council should consider the actions of the staff member under its internal HR procedures, the matter will immediately be referred to the Director of Adult Social Care and the complaints procedure will be suspended until the internal procedures have been concluded.

14. Process for handling a complaint

The aim of the Complaints and Data Protection Team is to ensure all complaints are handled as swiftly as possible without the need for escalation.

On receipt of a complaint the Team will:

- Carry out a risk assessment to determine the severity of the complaint and whether it raises safeguarding concerns. Some complaints will require immediate action by the service to address the situation.
- Contact the complainant to confirm receipt and seek further information as appropriate. This will be done within 3 working days of receipt.
- Identify who will respond to the complaint and the timescale for the response (see below).
- Write to the complainant to confirm the actions to be taken. The Complaints and Data Protection Team will continue to be the point of contact for the complainant during the complaints process.

Complaints can be made orally, in writing, via email or online.

If a complaint is made verbally, the Complaints and Data Protection Team will send a written record to the complainant for information and amendment if necessary.

The usual process is to refer the complaint to the team or service manager for a response. This is known as 'Local Resolution'.

The Council aims to provide a response within 15 working days although this can be varied depending on the complexity of the complaint. There can also be occasions when this timescale cannot be met, possibly due to the absence of a member of staff who needs to be interviewed, in these circumstances the complainant is informed of a revised timescale.

The response will include a summary of the findings of the manager, a meaningful apology where appropriate and details about actions to remedy the complaint and improvements to service delivery.

In most cases, this concludes the consideration of the complaint by the Council and the response will therefore include details of the Local Government and Social Care Ombudsman should the complainant remain dissatisfied with the response.

From time to time the complainant will ask for clarification of points made in the response and in these circumstances, a further response will be provided. This could be from a more senior manager who has reviewed the response to the complaint to date.

In a small number of cases, it will be more appropriate to carry out a detailed investigation of the complaint. This would be in situations where, for example, initial information gathering indicates the relationship between the complainant and the service has broken down to the extent it would not be possible to resolve the complaint at a local level, or where it is identified that the same situation is potentially impacting other service users and has wider implications.

In these situations, it is usual to appoint an independent investigator who will meet with the complainant to discuss the complaint in detail and construct a written statement of complaint which sets out the complaints that will be investigated.

Once the Statement of Complaint has been agreed, the investigations should be completed within 25 working days. In exceptional circumstances this can be extended up to 65 working days. The complainant will be kept informed of progress.

At the conclusion of the investigation, the Director of Adult Social Care, or an assistant director will write to the complainant to confirm the outcomes and identify any actions to be taken. Details of the Local Government and Social Care Ombudsman will be provided, should the complainant remain dissatisfied with the response.

More information about the Local Government and Social Care Ombudsman can be found on their website www.lgo.org.uk. The contact details are as follows:

Telephone: 0300 061 0614

Address: The LGSCO, PO Box 4771, Coventry, CV4 0EH

15. Advocacy

Many people value support from an advocacy service when making a complaint. An advocate can provide support throughout the complaints process and attend meetings or interviews and draft letters on behalf of the complainant.

Bath and North East Somerset Council commissions POHWER to provide advocacy support <https://www.pohwer.net/bath-and-north-east-somerset>
An advocate can also be a person known to the complainant such as a friend, relative, carer or professional.

16. Complaints about Residential Homes and Care Agencies

Where the care is provided by an independent provider, for example, a care agency or private residential home, but has been arranged by the Council, this is known as a 'commissioned service'.

All services commissioned by the Council will have their own complaints procedure and in most cases complainants will be advised to access the complaints procedure for the home or agency in the first instance. This can often result in a quicker response. The Complaints and Data Protection Team can contact the agency or home with details of the complaint on behalf of the complainant.

The Council expects the commissioned service to take the concerns seriously and respond detailing any action they intend to take to resolve the complaint and ensure improvements are made. However, where the complainant feels they could be disadvantaged by making the complaint to the agency or home they can ask the Council to deal with the complaint on their behalf. This will also be the case where the complainant advises they have already made their

complaint to the home or agency but have not received a satisfactory response.

The Commissioning Team will be advised of all complaints about a commissioned service; the Commissioning Officer will either discuss the concerns with the agency immediately or during a regular compliance visit to ensure it has been fully addressed and lessons learned.

If the service user funds their own care they will be advised to complain directly to the home or care agency or contact the Local Government and Social Care Ombudsman if they have already raised their complaint.

17. Complaints about care purchased with a direct payment

If the service user has a complaint about a service purchased with a direct payment, they will need to complain directly to the service provider or contact the Local Government and Social Care Ombudsman.

18. Care Quality Commission

A complainant who remains dissatisfied with the outcome of their complaint from the provider can contact the Care Quality Commission. Information is available on their website www.cqc.org.uk. Their contact details are as follows:

Telephone: 03000 616161

Address: CQC National Customer Service Centre, Citygate, Gallowgate, Newcastle upon Tyne, NE1 4PA

19. Learning from complaints

Detailed information about the complaints, compliments and comments and concerns can be provided to all service areas to assist with reporting or undertaking service reviews.

Data about the complaints procedure, themes and learning is available through regular reporting and in the annual report. See Section 20 below.

As each complaint is closed any actions required to resolve the complaint and improve service delivery are shared with the relevant Team or Service Manager. These are collated on a tracker by the Complaints and Data Protection Team and will be followed up with the relevant service area.

20. Annual Report

A report on the handling of complaints, concerns, compliments and comments will be completed annually by the Complaints and Data Protection Team Manager. This is presented to the Children, Adult, Health and Wellbeing

Panel and published for all service users, staff, senior management and elected members to view. The report will include information and statistics from the previous year as well as recommendations and impact on service delivery. It is envisaged the annual report will show trends in the use of the complaints, compliments, concerns and comments process and advise on areas to improve ensuring accessibility for all.

21. MP Enquiries

Correspondence received from an MP regarding an issue raised by a constituent is dealt with as an MP enquiry and is recorded as such. A response is provided to the MP by a Senior Manager. From time to time the MP is advised that due to the confidential nature of the response the Council feels it is more appropriate to write directly to the constituent. In these cases, the MP enquiry will be closed and the issue is recorded as a complaint.

22. Contact details for the Complaints and Data Protection Team

Information available on the Council website including an online complaint form:

<https://beta.bathnes.gov.uk/make-complaint-about-adult-social-care>

Telephone number: [01225 47 77 52](tel:01225477752)

Email: complaints_cypandadults@bathnes.gov.uk

In writing:

**Complaints Team
Bath and North East Somerset Council
Freepost SWB10433
Bath BA1 1BF**