



Rutland County Council

ADULTS' SOCIAL CARE COMPLAINTS PROTOCOL

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Summary of document

Rutland County Council has reviewed the way in which it handles complaints about Social Care. This protocol sets out how complaints about Adults' Social Care should be managed; it provides guidance on dealing with the statutory process and explains the different stages to be progressed in the event of a complaint.

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1. Introduction

The need for a complaints procedure for Adults' Services is laid down in statute. These regulations can be found in The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

Complaints not covered by this process will be dealt with under this Council's Compliments, Comments and Complaints Policy and Procedure.

2. Who does this procedure apply to?

This procedure applies to those who wish to make or have made a complaint about Adult Social Care Services.

The objectives are to ensure that:

- All complaints are dealt with efficiently and effectively
- Complaints are properly investigated
- Complainants receive a timely and appropriate response
- Complainants are told the outcome regarding the investigation of the complaint
- Appropriate action is taken where necessary

3. What is a complaint?

A complaint may be generally defined as an expression of dissatisfaction or disquiet about the actions, decisions or apparent failings of a local authority's adult social care provision which requires a response.

Sometimes people may report that they have 'concerns' regarding a social care service, but often want to avoid making a formal complaint. By listening to people voicing their concerns, managers can resolve issues faster, learn new ways to improve and prevent the same problems from happening in the future.

The Department encourages customers and their representatives to resolve any concerns they may have at the first point of contact with the service. This should be done by contacting the appropriate Team Manager. If it is possible to resolve the matter immediately (within 24 hours) there may be no need to engage the complaints process.

4. Time Limit for making a Complaint

There is a time limit of 12 months from when the matter being complained about occurred, to when a complaint may be made. After this time, a complaint will not normally be considered. However, the 12 month time limit may be extended where the local authority is satisfied that the complainant has good reasons for not making the complaint within that time limit and where it is still possible to investigate the complaint effectively and fairly.

5. Who can complain?

Regulation 5 of the Complaints Regulations (2009) requires Local Authorities to consider complaints made by someone who:

- Is receiving or has received services from the authority
- Is affected, or likely to be affected, by the action, omission or decision of the authority

A complaint may be made by a representative, acting on behalf of a person who has died, or is unable to make the complaint themselves because of:

- physical incapacity, or
- lack of capacity within the meaning of the Mental Capacity Act 2005, or
- has requested that a representative act on their behalf

Appropriate written consent must be provided in these instances.

A complaint by a representative will not be considered if the authority is satisfied that the representative is not acting in the best interests of the person on whose behalf the complaint is being made. If this occurs, the authority will inform the representative of the reason for this decision in writing.

6. What can be complained about?

Customers (or their representative with required consent) are able to use the complaints procedure for any matter reasonably connected with the exercise of the local authority social services functions.

Although not an exhaustive list, the type of issues complained about include:

- an unwelcome or disputed decision;
- concern about the quality or appropriateness of a service;
- delay in decision making or the provision of services;
- delivery or non-delivery of services;
- quantity, frequency, change or cost of a service;
- staff conduct;
- application of eligibility and assessment criteria;
- the impact on an individual of the application of a local authority policy; and
- assessment, care management and review.

7. What is excluded from the Complaints Procedure?

The social care complaints arrangements exist to provide a means to express dissatisfaction with services received. The arrangements maintain this principle, but there will continue to be some issues for which they cannot be used. Although not an exhaustive list, the type of issues include:

- Disciplinary proceedings.
- Criminal proceedings.
- Grievance proceedings.
- Complaints from staff about personal issues.
- Where an appeals process already exists.
- Complaints relating to independent providers (all independent service providers are required to have their own complaints procedure in place)
- Where a Court or Tribunal has made, is making, or is about to make a determination on the specifics of the complaint (in these instances it is usual to consult with the Legal Team for confirmation /clarification).
- Where the same complaint has previously been dealt with through all stages of the complaints procedure.

Also excluded from the arrangements will be complaints:

- Arising out of the alleged failure to comply with a data subject request under the Data Protection Act 1998, or
- Arising out of an alleged failure by a Local Authority to comply with a request for information under the freedom of Information Act 2000

8. Self funded Services

With effect from October 2010 adults who fund their own social care have had access to an independent complaints review service provided by the Local Government Ombudsman made (LGO). The LGO are able to review complaints about privately purchased care by users, their family or others affected by the actions of a regulated adult care provider. For more information about this service customers should refer to the [LGO website](http://www.lgo.org.uk/) <http://www.lgo.org.uk/>

9. Social Care Provider/Voluntary Agency Complaints

Where the Council has commissioned a service for a customer, the provider will have a complaints procedure of their own, and complainants should first use this procedure. If a complaint is sent direct to the Local Authority, the receiving manager will obtain consent from the complainant for details of the complaint to be sent to the relevant provider. Information will be sent to the provider and they will be asked to investigate and respond.

If the complaint is in part the responsibility of the Council, the Department will notify the complainant which part of the complaint will be handled by the Council. If possible, the relevant manager should work with the social care provider for the purpose of ensuring the complainant receives a co-ordinated response.

10. Co-ordinated Working Across Professional Boundaries

Sometimes a complaint will cross the boundaries between organisations, for example, another local authority, an NHS body, the Police, a housing agency.

Where a complaint crosses these boundaries, the services involved should try to assist the complainant to have their complaint dealt with efficiently whilst aiming to provide a joint resolution.

To enable the investigation to run more smoothly, one organisation should take the lead. There are many factors involved in making this decision, and the following should be taken in consideration:

- Which organisation has the most serious complaints about it?
- Whether a large number of the issues in the complaint relate to one organisation opposed to the other organisation.
- Who originally received the complaint – relevant if the seriousness and number of complaints are about the same for each organisation.
- Whether the complainant has a clear preference for which organisation takes the lead.

11. Complaints which involve Safeguarding Adults (Adult Protection)

There are sometimes occasions when a complaint may highlight a possible safeguarding issue. The Council has a zero tolerance approach towards safeguarding adults and as such any safeguarding concerns which become apparent through the complaints procedure will be processed through the safeguarding procedure.

Such instances will be recorded as a complaint by the Governance Team, but will then be referred for investigation under Safeguarding Adults Procedure. If the Safeguarding Adults Procedure is activated then this takes priority and action in relation to the complaint will cease until the Safeguarding procedure is complete. The Governance Team will inform the complainant in writing in this event.

12. Anonymous Complaints

These complaints fall outside of the scope of the statutory complaints procedure and it is the responsibility of the receiving manager to decide what action, if any, should be taken. Anonymous complaints may be investigated, although the complainant should be advised that, without any contact details, the authority will not be able to notify them of the outcome.

13. Complaints from Council Members or Members of Parliament

From time to time complainants choose to make their complaint to a Member of the Council or an MP. These will be dealt with as a complaint by a representative – refer to section 5.

MP's are also able to raise a concern or make a representation on behalf of a constituent. These are managed via the Chief Executive's office and have a defined response time frame.

14. Persistent, vexatious and unreasonable complainants

A very small number of complainants fall within the definition of persistent, unreasonable or vexatious complainants. To define a complainant as such, staff should seek the advice of the Head of Corporate Governance.

15. Advocates

There is no statutory duty on local authorities to provide an advocacy service to complainants. The department will however, where appropriate, facilitate the provision of independent advocacy services and make a referral to such services on behalf of complainants.

With respect to complainants who lack mental capacity (reference Mental Capacity Act 2005), the Department may offer an Independent Mental Capacity Advocate (IMCA). The IMCA service is an independent service whereby an Advocate will provide one to one support for the person lacking capacity, just as a friend or relative would. IMCA services are provided by organisations who are independent from the Local Authority.

16. Complaints and the media

Whilst complaints should remain strictly confidential, some may come to the attention of the media. The fact that the complainant has gone to the media (local or national) does not absolve the Council from its responsibility to maintain confidentiality. The media and complaints handling should remain separate. Media contact is managed by communications professionals within the Council.

17. Record Management and Data Protection

All functions of the complaints procedure must adhere to the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000.

18. How to make a complaint

If customers are dissatisfied with a particular service, they are encouraged to contact us through our complaints process.

Complaints can be accepted in any format which the complainant chooses including:

- A 'Let us Know' form, which is accessible on our website.
- By email to Letusknow@rutland.gov.uk or direct to the department.
- By telephone on 01572 722577 or direct to the department.
- In writing or in person at Customer Services
- By twitter @rutlandcouncil

The Governance Team will record the complaint, send a written acknowledgement within 1 working day which notifies the complainant of who will be investigating and sending the written response and the date by which the response should be sent out.

19. The Process

The Adult Social Care Complaints Protocol uses a two stage process.

Stage One: Team Manager Review

The stage one investigation and response is carried out by the Team Manager, or if the Team Manager has been named in the complaint, then the Head of Service¹ may be approached. As soon as is practicable after completion of the investigation, the Team Manager will send the complainant a written response.

The response should include:

- A statement of the complaint
- An explanation of how the complaint has been considered.
- What the investigator has taken into account e.g. things the complainant has said, information the investigator has obtained – what and from whom (being mindful of confidentiality), relevant authority policy/guidance, relevant law.
- The Investigator's decision and the reasons for it.
- What will happen next, if action is to be taken, how, when and by whom.
- If the complainant disagrees, how they can challenge the decision

There are no statutory timescales with which the Department must comply when resolving complaints. However, it is acknowledged that when someone has made a complaint, it is important to both them and the Department to resolve the matter as soon as possible in an effective and efficient manner and, wherever possible, to the satisfaction of the complainant. The aim, therefore, is to send a written response to a complaint within 10 working days and the complainant will be advised of this by the Governance Team in their initial acknowledgement response. This is subject to a complaint being non-complex; if a complaint is more complicated, it may take longer to resolve. If this is the case, the complainant will be advised of any delay, the reason for the delay and provided with a new response date. The 2009 regulations state that investigations should normally be completed within six months or such longer period as may be agreed between the authority and the complainant.

At the conclusion of the response, the complainant must be informed of their right to progress their complaint to stage two if they remain dissatisfied. They have 20 working days in which to request this.

¹ Where the complaint relates to the Head of Service, it will be escalated through the relevant line management.

Stage Two: Head of Service Review.

This will consider:

- Whether further clarification is needed over the precise nature of the complaint and what outcome is sought
- Whether the investigation was undertaken correctly
- Whether any further actions can be taken to resolve the complaint and achieve the outcome requested
- That there is no scope for further action.

Stage two will be completed within 10 working days. If this is not possible the complainant will be advised of any delay, the reason for the delay and provided with a new response date

If a customer is still dissatisfied having progressed through both stages of the process, they will be informed of their rights to refer the complaint to the Local Government Ombudsman or the Council can refer the complaint to the Ombudsman directly.

20. Local Government Ombudsman (LGO)

If you have been through all stages of our complaints procedure and are still unhappy, you can ask the Local Government and Social Care Ombudsman to review your complaint.

The Ombudsman investigates complaints in a fair and independent way - it does not take sides. It is a free service.

The Ombudsman expects you to have given us chance to deal with your complaint, before you contact them. If you have not heard from us within a reasonable time, it may decide to look into your complaint anyway. This is usually up to 12 weeks but can be longer for social care complaints that follow a statutory process.

About the Ombudsman

The Local Government and Social Care Ombudsman is the final stage for complaints about councils and some other organisations providing local public services. It also investigates complaints about all adult social care providers (including care homes and home care agencies) for people who self-fund their care.

Contact:

Website: www.lgo.org.uk

Telephone: 0300 061 0614

Text 'call back' to 0762 481 1595

Opening hours: Monday to Friday: 8.30am to 5.00pm (except public holidays)

21. Improving and learning from complaints

Complaints provide a vital source of insight about people's experiences of social care services. It should be remembered that the formal complaint investigation process is not to 'find fault', but to look at the practices followed in relation to the

complaint issues at hand. This also provides an insightful valuable source of information and we will use these experiences to:

- Identify service problems and make improvements.
- Improve / adapt staff learning and enhance professional development.

To this aim, an overview of the learning outcome will be forwarded to the Governance Coordinator by the Head of Service following the investigation and closure of a complaint.

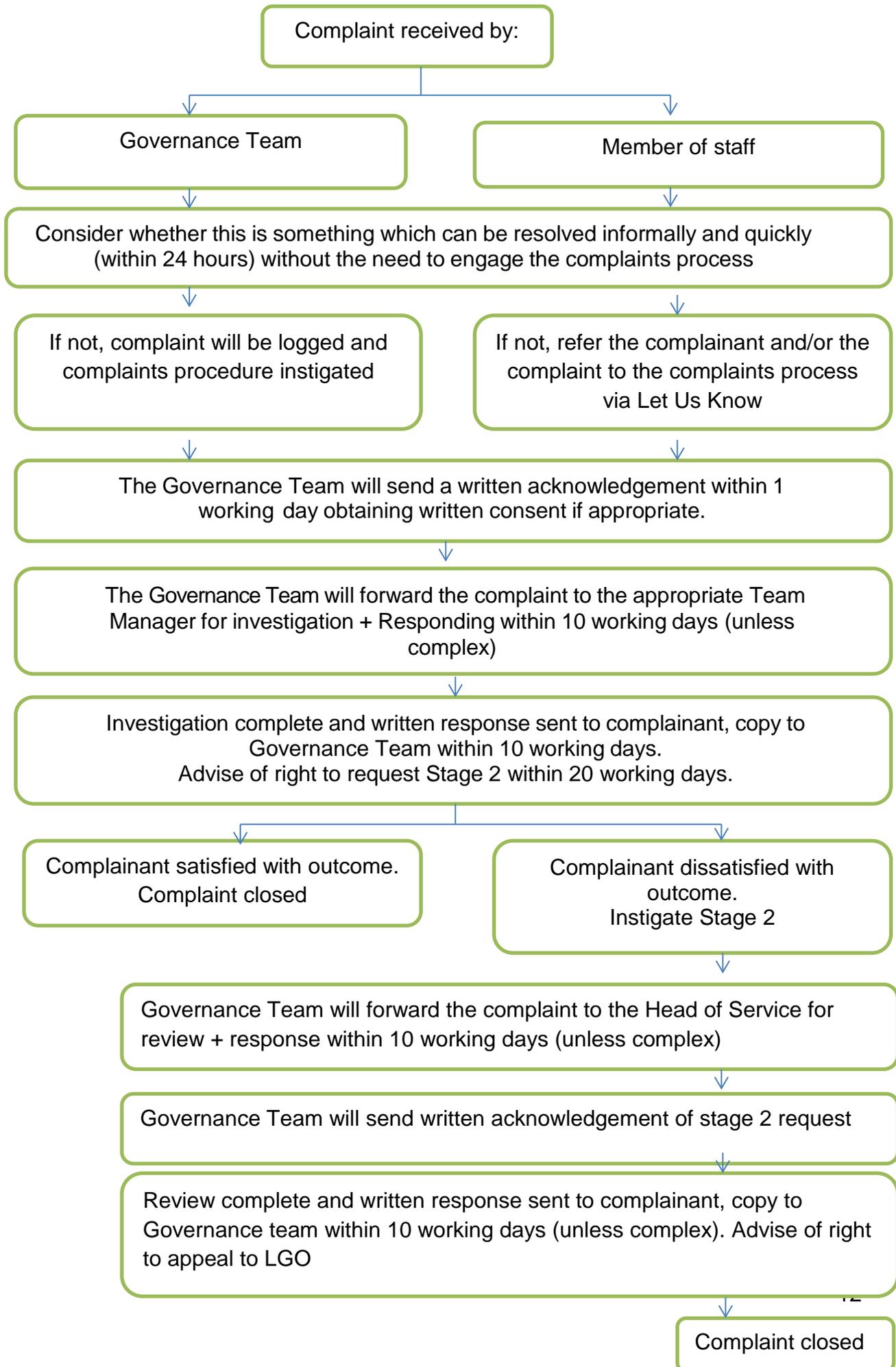
22. Quality Assurance

To support continuous improvement, a random selection of complaints will be audited on a quarterly basis by the Director/Deputy Director to ensure that responses to complaints are of the required standard, demonstrate sound decision making and address the response requirements listed in Section 19.

23. Performance report

Local Authorities are required to publish an annual report every financial year which details complaints made for that year. It is the responsibility of the Head of Corporate Governance to produce this and is an important part of governance function. The report is presented to the Resources Scrutiny Panel and senior management to ensure activity is noted and any lessons learnt are shared. Once accepted / agreed, the annual report should be available to both staff and the general public alike.

Complaint Flowchart



A large print version of this document is available on request.



Rutland

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