



# **Adult Social Care Annual Complaints Report**

**April 2018 - March 2019**

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## **1. Executive Summary**

- 1.1 It is a statutory requirement to produce an annual report about complaints made by, or on behalf of people who receive support or services from Adult Social Care. This annual report also provides a mechanism by which the Council can monitor the quality and effectiveness of services and of its complaints procedure.
- 1.2 This report provides an overview and analysis of all complaints received during the reporting period 1 April 2018 to 31 March 2019; including a summary of identified issues, examples of service improvement and details of future objectives for 2019/20. Comparisons from the previous reporting period, i.e. from 1 April 2017 to 31 March 2018, have been included where available.
- 1.3 The report will be published on the Council's website, and made available to managers and staff, elected members, residents and inspection bodies. During 2018/19, 10,884 service contacts were received from new clients by Adult Social Care and Health. At the beginning of April 2018, 4,098 people were being provided with ongoing support. This report provides information about complaints received by Adult Social Care for the same period
- 1.4 Under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, it is a statutory requirement to produce an Annual Report which provides information on the quantity of the complaints received and the performance of the complaints response.
- 1.5 Each complaint will be acknowledged within 3 days and complainants will be informed of the expected timescale at the outset. In all cases complaints should be dealt with expediently however some complaints of a more complex nature will require more time to investigate and resolve. The maximum amount of time allowed to deal with any complaint is six months. Investigations will be conducted in an impartial, reasonable and proportionate manner. Full regard will be taken of the desired outcomes of the complainant. Where mistakes have been made, we will acknowledge them, apologise and seek to rectify the situation, by a prompt, appropriate and proportionate remedy.
- 1.6 Complaints should be managed effectively at all stages of the procedure by having clear and straightforward systems in place to capture them. Processes for making a complaint should be readily accessible to all clients, and decisions taken as quickly as possible; where fault is found, lessons learnt are then fed back into service improvements. We also seek to use our intelligence and work with operational teams to reduce the level of dissatisfaction occurring.
- 1.7 As noted in last year's report, in June 2017, the Council formally integrated some of its Adult Social Care assessment and support planning services with Wirral Community NHS Foundation Trust (WCNFT). This resulted in some Council staff like Social Workers and Care Navigators moving over to work for WCNFT. The second phase of this integration took place during 2018/19. This involved the

remaining Adult Social Care assessment and support planning services formally transferring to Cheshire and Wirral Partnership Trust (CWP). This change took place in August 2018. Following both stages of integration, complainants now have the option to raise their complaint with either the Council or the NHS. These significant changes have had an impact on the level of complaints made to the Council in relation to Adults Social Care.

## **2. Background – Statutory Complaints Procedure**

2.1 A complaint is defined as any expression of dissatisfaction about the exercise of Adult Social Care functions that requires a response. Complaints that are made orally and can be resolved on the same working day may be excluded from the procedures; all other complaints are dealt with through the complaints procedure.

2.2 Complaints must be made by an eligible person. An eligible person is either

- (i) a person who receives services or may be eligible to receive services
- (ii) a person who is affected, or likely to be affected by the action, omission or decision of the Department, or;
- (iii) a person with sufficient interest or consent acting on behalf of a person described in (i) & (ii).

2.3 A complaint must be made within 12 months of the event complained about. This may be extended at the discretion of the Complaints Manager.

2.4 Commissioned services are services provided by an external company or voluntary agency on behalf of the Council. Complaints about commissioned services can be made direct to the Council or to the Provider. Complaints made to the Provider can subsequently be referred to the Council for consideration if the complainant is not satisfied. If the Provider escalates a complaint through its internal complaints procedure, the complainant (if dissatisfied) can then forward their complaint direct to the Local Government Ombudsman (LGO). It is relevant to note that the Council may have no knowledge of the complaint until contact from the LGO is received.

## **2.5 Stage One – Local Resolution Stage**

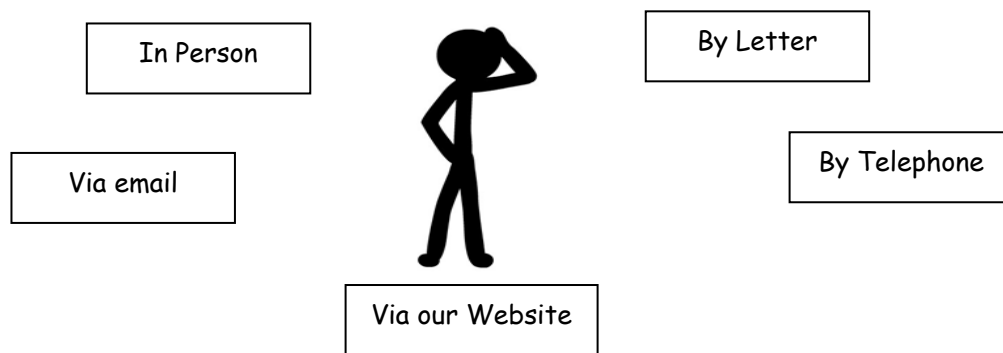
This stage provides the opportunity for managers and staff who have responsibility for the case to try and resolve issues of dissatisfaction at a local level, as early as possible. The Complaints Team provides support and guidance to both the complainant and the service manager, to help achieve early resolution. Where failings have been identified, the Team will work to ensure that matters are put right quickly with lessons learned captured, feeding this intelligence back into the relevant service areas to ensure improvements are made. The timescale for resolving these complaints is 25 working days. Dependent on the complexity of the complaint, the Complaints Team will arrange a meeting with the complainant and a senior officer to explore the concerns raised.

## 2.6 Local Government Ombudsman (LGO) stage

If a complainant remains dissatisfied after receiving a response to their complaint, they can forward their complaint to the LGO. A complainant can access the LGO at any point; but the LGO normally provides the Council with the opportunity to process the complaint through the statutory procedure before dealing with the complaint. Over the last 12 months, the LGO has implemented a two staged approach to complaints received. The first being the Enquiry Stage, a new team review the complaint, the Council are usually given between 3/4 days to provide some initial information (Council's final response letter and any other key information). The LGO will then either escalate the complaint to an Investigation Stage or close the complaint. The reasons for closure may include, a late referral (i.e. over 12 months old) or that they are satisfied the Council has managed the complaint. If the LGO has chosen to investigate the complaint, the timescale for responding to the investigation is usually 28 calendar days, which the Council is required to adhere.

## 3. How to make a complaint

It is recognised that making a complaint can be a stressful experience. The Team seek to minimise this stress and wish to make it as easy as possible to make a complaint. The Team encourage any client who has a concern to first speak to a member of staff in the relevant service area. If the problem can be solved on the spot there is no need for the issue to go through the formal complaints process. However, if the complaint cannot be dealt with immediately or the client wishes to have a formal response, they can do so:



Full details can be found at:

<http://www.wirral.gov.uk/about-council/complaints/complaints-about-adult-social-services>

## 4. Advocacy

Advocacy, in its broader sense, is about empowering people to make sure that their rights are respected. It is also paramount that individual's views and wishes are fully considered and reflected in decision-making about their own lives. In general, where clients or carers wish to use an advocate, the Council has commissioned an organisation called Ncompass. This company provide free, confidential and

independent advocacy to people who use care and community services in Wirral. Alternatively, people can contact a relevant disability or carers organisation for assistance; such as Age UK, Learning Disability Experience or Carers UK. The Complaints Team can put complainants in touch with advocacy organisations where requested or for cases which it is felt would benefit from such support.

## **5. Confidentiality**

The Council recognises every complainant's right to confidentiality, requiring adherence to the following principles:

- Information given by the complainant must only be used for the purpose intended
- Information should only be shared between agencies on a need to know basis
- Information about the complaint and the complainant should be recorded only where it contributes to the resolution of the complaint
- Information used for monitoring, review and analysis purposes should never be presented in a way that identifies individual complainants.
- Personal data is protected under the Data Protection Act 1998 and General Data Protection Regulations 2018, and clients have a right to see the information the Council holds about them

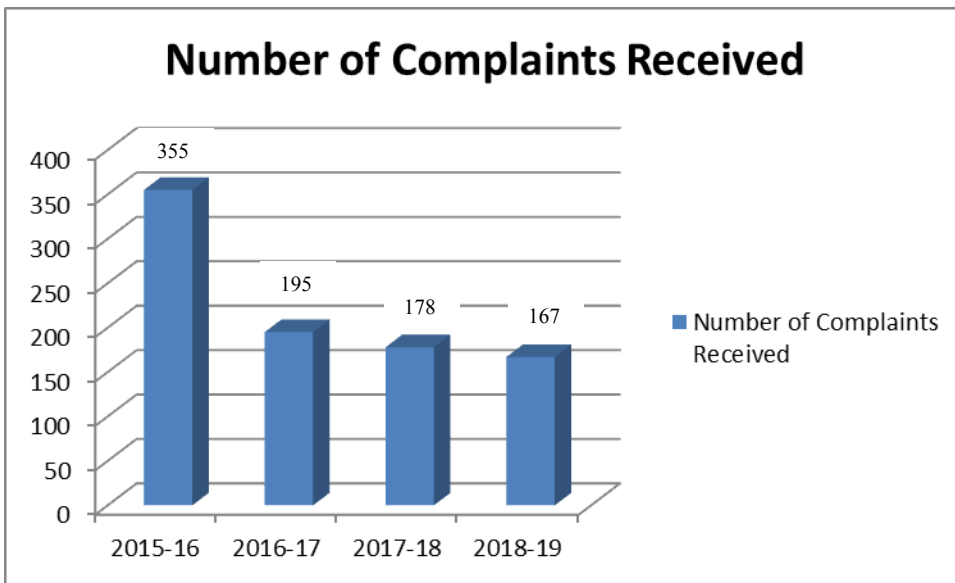
## **6. Complaints and other logged contacts 2018/19**

6.1 Over the course of the year, the Team formally logged 193 contacts. These have been defined into 5 key areas:

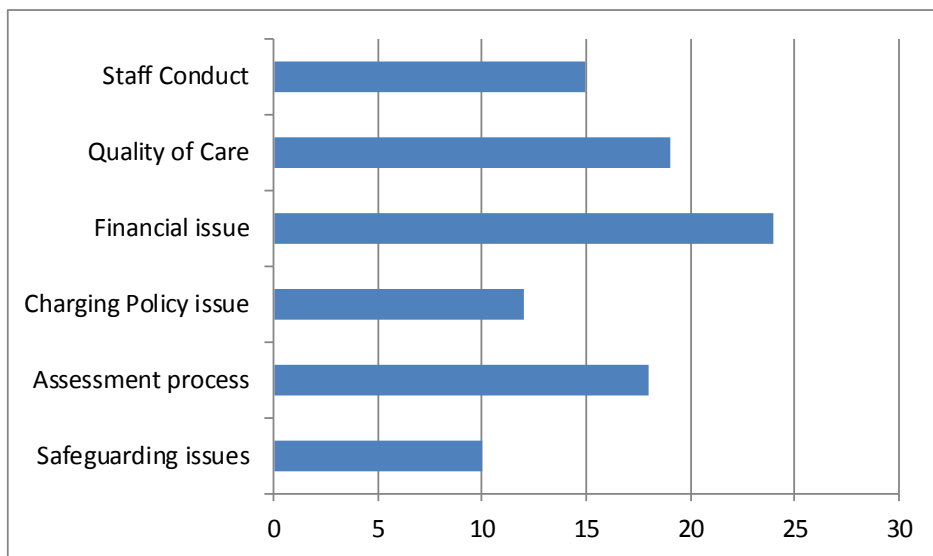
- Complaints (167)
- Concerns (3)
- Local Government Ombudsman cases (18)
- Transferred to other Departments (2)
- Whistleblowing (2)

### *Complaints Received*

6.2 The total number of complaints registered in 2018/19 was 167, slightly down from the number logged in the previous year of 178. As discussed in 1.7 above, complainants now have the option to raise their concerns directly to social care delivery partners (WCNFT/CWP), which explains the reduction compared to previous years. The complaints shared with our NHS partners are reported to the Council through contractual meetings and inform practice improvement in the same way, had they been received by the Council.



- 6.3 Of the above complaints, 86% were acknowledged within the first 3 days.
- 6.4 Each year the team receive a wide range of concerns and issues. During 18/19 a third of all complaints received were about commissioned services, including Care Homes, Domiciliary Care Agencies, Supported Living providers and Assistive Technology.
- 6.5 A more detailed analysis of the issues complained about, shows that there are some key themes emerging which are illustrated in the table below. The complaints in the table represent almost 60% of the complaints received:



- 6.6 As referenced in last year's report, the Team had seen an increase in complaints about financial concerns; this theme has continued into 2018/19. The key financial concerns shared involve disputed invoices, misunderstanding of charging implications of receiving care, lack of clear information on the charging process, backdated charges/invoices and delayed financial assessments. In addition to this, we have also seen a rise in complaints about the quality of care, whereby the complainant is asking for the charges to be waived.
- 6.7 Of the complaints received, 89% were resolved at the Local Resolution Stage by the Complaints Team and did not progress to the Local Government Ombudsman. This compares to 79% in the previous reporting period of 2017/18.

#### Complaints about Care Providers

- 6.8 As discussed above, a third of complaints received were about commissioned packages of support. Complaints about commissioned services may be made to the Provider in the first instance. They may then be referred to the Complaints Team if the complainant is not satisfied with the response. Complainants may wish to approach the Complaints Team in the first instance, which is also acceptable. In such cases, the Providers will be expected to provide a detailed draft response to the complainant, which the Complaints Team will review to ensure it is appropriate and addresses the concerns raised. It is relevant to note that Registered Care Providers are contractually obliged to inform the Council about complaints shared directly with them; this information is shared on a monthly basis. The Care Quality Commission (CQC) also review complaints received by the Provider as part of the inspections it undertakes.
- 6.9 In previous years, the report has shared complaints in four broad areas including:
- Staff Conduct
  - Quality of Care
  - Late/missed domiciliary care calls
  - Medication errors

The Complaints Team is of the opinion that complaints received during 2018/19 have increased in terms of their complexity, which can be difficult to capture and convey within reports.

- 6.10 With this in mind, the following Case Studies have been shared from complaints about commissioned services. It is hoped this will provide a better insight for members of the intricate investigatory work required and being undertaken within the team:





Case Study 1 (Supported Living) – client was left unsupervised by the Care Team and was able exit the premises without staff being aware, safeguarding concerns, lack of continuity of care support, family unable to make telephone contact with the Provider, low staffing levels, client not provided assessed 1:1 support

Case Study 2 (Nursing Home) - Poor nursing care for ulcers and pressure sores, oppressive nursing practices, inappropriate comments made by staff, poor communication between the Provider, client and their family



Case Study 3 (Residential/Nursing Home) - Safety and wellbeing concerns for staff and residents at Home, low staffing levels, residents left unsupported, nursing clients left on residential wing, Manager aware but not acting on concerns, clients not receiving 2:1 support, risk assessments for staff not being undertaken

Case Study 4 (Transfer to Assess placement) - No physiotherapy provided, odour some room, lack of shower/bath, poor appearance, not toileted regularly, incidents not being recorded, no checks on medication taken, delayed hospital admission



Case Study 5 (Domiciliary Care) – Care has always been provided at 9am for several years. Care Visits during 2019 began at 10am without any consultation. The Care Worker fitted a piece of equipment to the client back to front, causing much discomfort. Care Provider treated client and family with contempt and also the care visits were shorter than commissioned time.

The concerns raised in the above Case Studies are not isolated to these cases.

### Responding to Complaints

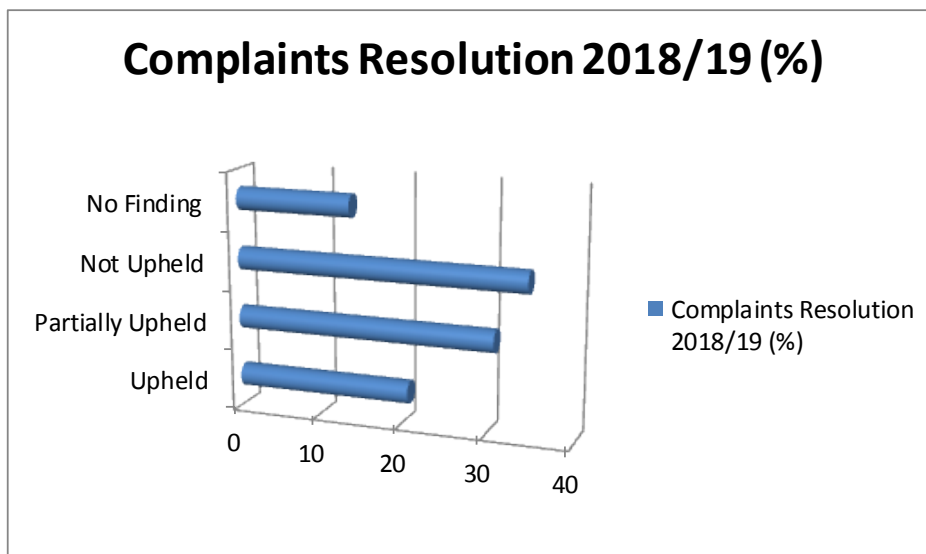
- 6.11 Timescales for responding to complaints are not statutorily prescribed, however they must be as short as reasonably possible to allow for effective consideration. Guidelines are in place to determine what a reasonable timeframe is in most circumstances. Our target is to respond to 70% of complaints within 25 working days and an expectation that all complaints are fully responded to within 6 months.
- 6.12 The average time to respond to complaints was 46 working days. This has significantly reduced from last year when the average time to respond was 104 days, which we see as a positive step and is reflective of additional staffing resources made available to the Complaints Team during the year. However, only 47% of complaints were closed within 25 days, which falls below the expected target of 70%. In addition to this, 6% of complaints exceeded the 6-month timescale. This is still an improvement on last year's figures of 25% but falls below the target of 100%.

6.13 In terms of the timescales, the Team believe the complexities of the complaints as discussed in point 6.10 above, does have a clear impact on timescales. For the most serious complaints, a formal investigation is undertaken by the Complaints Team which involves an in-depth review of the case files and may also involve interviews taking place with the Social Work Team, the Care Workers, other relevant colleagues. For complaints which require formal investigation, the timescale of 25 working days is mostly exceeded.

A comparison of performance over previous years is shown below:

Response	Performance					Target
	2014/15	2015/16	2016/17	2017/18	2018/19	
Average Days to Respond	37	47	65	104	<b>46</b>	
Percent of complaints to be responded to within 25 days <small>(from 2014-2017 15 working days)</small>	55%	47%	22%	24%	<b>47%</b>	70%
Percentage complaints fully responded to within 6 months	98%	95%	91%	76%	<b>94%</b>	100%

6.14 Of the complaints responded to just over half (52%) were either fully or partially upheld. Where complaints were upheld appropriate apologies were made and relevant action taken. The chart below represents the overall position for 2018/19:



## Listening to Users of Services and Learning from Complaints

6.15 Complaints are valuable to the service. As well as providing an efficient and effective way for users of public services to get their issues addressed, they also offer a chance to gain an accurate picture of the level and quality of service offered from the perspective of the user. They provide feedback on service delivery and provide a means for the user to have an input into the continuous improvement of the service. The Complaints Team work alongside the Council's Professional Standards Team and have developed a close link to the Principal Social Worker. Relevant actions arising from complaints are shared between the two teams and any learning is built into practice audits and instilled within both professional development and training moving forward. This link is pivotal to ensure we improve processes and use this intelligence as part of the learning process.

## **7. Training and Development**

7.1 Training on complaint handling, customer care, data protection and General Data Protection Regulations (GDPR) can be accessed through the Council's Website. The Complaints Team is available to support and advise staff; to ensure that best practice is followed during a complaints investigation; and to provide targeted training with individual members of staff and managers on request.

## **8. Integrated Services**

8.1 As discussed following the decision to formally integrate the Adult Social Care assessment and support planning services to both Wirral Community Foundation NHS Trust (WCNFT) and Cheshire and Wirral Partnership Trust (CWP) complaints can now be presented to one of three organisations:



Some positive work has taken place over the course of the year to ensure the three teams work closely on complaints, ensuring:

- A consistent approach is adopted for all Adult Social Care complaints
- That clients/clients families are clear what procedure they are being supported within
- A joint response is applied as and when required
- A robust review/investigation of the complaint is undertaken

- That all responses offer the complainant the option to refer their social care complaint onto the Local Government Ombudsman (LGO)

## 9. Local Government Ombudsman (LGO) Complaints

9.1 We received 18 complaints from the Ombudsman in the past year; of which 17 Decisions were made and 1 Public Report was issued against Adult Social Care. Out of the 18 cases, 9 were upheld, which represents a similar picture to the previous year.

9.2 The outcomes are shown below:

LGO Outcome	2015/16	2016/17	2017/18	2018/19
Upheld, Maladministration, Injustice	5	6	10	<b>8</b>
Upheld, Maladministration, No Injustice	1	1	0	<b>1</b>
Upheld, No Further Action	1	0	0	<b>0</b>
Closed, No Further Action	1	6	3	<b>3</b>
Premature	4	1	0	<b>2</b>
Not Upheld, No Maladministration	1	2	3	<b>4</b>
Still Open	0	0	4	<b>0</b>
<b>Total</b>	<b>13</b>	<b>16</b>	<b>20</b>	<b>18</b>

9.3 As discussed earlier in the report, in accordance with good practice all three Complaints Teams inform each complainant of the right to complain to the LGO. We also seek a positive relationship with the Ombudsman and agree early resolution where possible.

### LGO Public Report

9.4 It has been over 10 years since the service received a Public Report from the LGO (Case Number: 17020182). Public Reports vary from Decisions, in that the LGO actively publicises the outcome of the complaint by issuing a Press Release which records the failings.

9.5 The LGO summarised the complaint as relating to a domiciliary care package commissioned by the Council which was 'not adequate'. The report noted the Council charged the client for a service he did not receive. When the client's son raised a formal complaint, the Council failed to deal with the complaints properly or take effective safeguarding action. As part of the initial complaint response, the Council acknowledged and apologised for several faults. The LGO noted that some of the faults referenced were serious, particularly around the way the Council dealt with the complaint which contained safeguarding issues. Following the LGO's investigation, the Council agreed to the following recommendations which have now been completed:

- apologise to the complainant detailing the faults identified above and the action taken to avoid similar faults in the future
- waive 50% of the clients care fees to remedy the financial loss caused
- pay the complainant £200 to remedy the frustration and stress caused
- refer this case to the Local Safeguarding Board for review
- ensure all relevant complaints and assessment staff receive appropriate safeguarding training to ensure safeguarding issues are dealt with promptly and appropriately
- review the complaint handling in this case and develop an action plan to ensure an improved service in future

The Assistant Director (Care and Health) presented a report at the Council's Standards and Constitutional Oversight Committee on Tuesday, 11 June 2019. Following this meeting, the report was also presented to Cabinet and the contents were noted.

## **10. Looking Forward**

- 10.1 The Complaints Team will continue to work towards the agreed complaints targets.
- 10.2 The Complaints Team continue to develop working practices with the Council's Professional Standards Team and the Principal Social Worker. This relationship will ensure any learning is built into practice audits and instilled within both professional development and training moving forward. As noted, this link is pivotal to ensure we improve processes and use this intelligence as part of the learning process.
- 10.3 The current Complaints Database is now 10 years old and no longer provides the basic requirements for a system that can log, process and collate learning for complaints. The Team are working closely with Business Support, Children's Services, Corporate Complaints, IT and Procurement to identify a more functional package to record complaints. It is expected that the database will allow for learning from complaints to be accurately recorded and distributed to relevant Teams across the Adults Care and Health and other partners.

Jen Harris  
Interim Complaints Manager  
December 2019