



Document Control Form

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Adult Social Care

Complaints and Representation Procedures



Modification Register

Modified By	Date	Modification Details	Issue No.
Len Chenery		Draft	Vers. 0.1
Len Chenery	1/6/01	First Issue	Vers: 1.0
Lynda Henderson	27/6/02	To meet Leaving Care requirements Complaints section a(ii) & section e	Vers 1.1
Lynda Henderson	19/1/04	Recommendation stage II investigation	Vers 1.2
Lynda Henderson	7/7/04	Annual Review	Vers 2.0
Lynda Henderson	28/06/07	New regulations	Vers 3.0
Lynda Henderson	31/01/10	Annual Review and 2009 Regulations	Vers 4.0
Lynda Henderson	27/10/2016	Review	Vers 5.0

1.INTRODUCTION

Blackburn with Darwen Borough Council Adult Social Care Department have produced these complaints and representation procedures to ensure that the Department:

- a) Meets its statutory responsibilities under the National Health Services complaints (England) Regulations 2009.
- b) Knows what it does well and what it can do better and.
- c) Deals with people's concerns in a positive fashion focusing on solving problems

These procedures are a crucial element of the Borough's overall customer care strategy

The services to which this procedure applies are social care services to:

- ❖ Older People
- ❖ People with a physical disability
- ❖ People with a learning disability
- ❖ Other vulnerable people

The Care and Support Statutory Guidance states that:

17.79 Current complaints provision for care and support is set out in regulations. The provision of the regulations mean that anyone who is dissatisfied with a decision made by the local authority would be able to make a complaint about that decision and have the complaint handled by the local authority. The local authority must make its own arrangements for dealing with complaints in accordance with the 2009 regulations.

Local Authority Social Services and NHS complaints regulations 2009 made under powers in Section 113 of the Health and Social Care (community health and standards) Act 2003.

In April 2015 new legislation called The Care Act 2014 was introduced in England in order to make care and support services better and more consistent across the country. The focus is firmly on the person rather than the service and the new law empowers people to be involved and in control of their care journey and in turn maximise their potential to live a full and meaningful life.

Blackburn with Darwen Borough Council has developed a number of policy documents and procedures to describe the process which is followed by the Council in relation to the care and support needs of adults in its communities.

Each policy and procedure reflects the over-arching commitment to put the person at the centre of all decisions which are made. The focus of this procedure is to embrace the requirements of the Care Act by ensuring people

are fully involved in resolving any concerns or complaints they may have about the service.

All complaints will be handled in accordance with the law, relevant guidance, and the Departmental Complaints Procedure.

2.0 WHAT IS A COMPLAINT

A complaint is any expression of dissatisfaction about a service that is being delivered or the failure to deliver a service.

Complaints that are made orally and can be resolved on the same working day may be excluded from these procedures

2.1 WHO CAN COMPLAIN

A complaint can be made by

- ❖ A service user
- ❖ Someone who has been turned down for a service to which they think they are eligible
- ❖ The representative of a service user – can be anyone acting on their behalf with their consent
- ❖ The representatives of a service user who has not got capacity as long as they are seen to be acting in the interests of that service user
- ❖ Anyone who is or is likely to be affected by the actions, decisions or omissions of the service that is subject to a complaint

A complaint can only be made by/on behalf of someone to whom the local authority may have the duty or power to provide a service.

Any decision that a complainant is not a qualifying complainant will be made by the complaints manager in consultation with the appropriate service manager and the complainant informed in writing.

2.2 HOW CAN COMPLAINTS BE MADE?

We recognise that making a complaint can be a stressful experience and seek to minimise this stress and to make it as easy as possible to make a complaint.

The Department encourages any service user or their carer, who has a concern to speak to a member of staff in the relevant service area. If the problem can be resolved at that point there is no need for the issues to go through the formal complaints process.

However, if the complaint cannot be dealt with immediately or the service user/carers wishes to have a formal response, they can do so:

- In person
- Via our website
- By letter
- By fax
- By e mail
- By telephone

2.3 WHAT CAN BE COMPLAINED ABOUT

A complaint can be made about anything that is connected with the Local Authorities exercising of its social care function. This could be:

- ❖ Quality or amount of service
- ❖ Charges for a service
- ❖ A decision
- ❖ Failure to follow correct procedure
- ❖ Delay
- ❖ A service is not being provided
- ❖ Application of assessment
- ❖ Attitude or behaviour of staff
- ❖ The impact for an individual of the application of a local authority policy

Matters that should be dealt with through other procedures will not be dealt with as a complaint e.g.

- ❖ Disciplinary or grievance proceedings
- ❖ Criminal investigations
- ❖ Where a statutory appeals process is in place
- ❖ The complainant intends to take legal proceedings in relation to the substance of the complaint
- ❖ Allegations relating to safeguarding

However if some aspects of a complaint are being addressed through other processes it does not mean that the entirety of the complaint should not be progressed. Issues that can be considered under the complaints procedure, as long as they don't compromise any other process, can still be addressed this way. It is possible for two procedures to run side by side.

If at any point in dealing with a complaint it becomes apparent that there are issues that should be addressed through other procedures that part of the complaint will be suspended and moved to another procedure as appropriate and the complainant informed.

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

a) Timescales for dealing with complaints

All timescales are in working days. The timescales are:

- ❖ Acknowledgement of concerns with 3 days
- ❖ Every effort made to resolve and reply to complainant with 20 days
- ❖ The maximum amount of time allowed for dealing with any complaint is six months

For written complaints, acknowledgement and reply letters should be completed by the above time limits

3.0 RESPONDING TO COMPLAINTS

Complaints will be allocated to the relevant manager or officer. The relevant manager is responsible for ensuring that each complaint has a plan for how it will be dealt with working to a clear timescale to respond, that agreed with the Complaints Manager. The manager is responsible for providing feedback on progress with the complaint and escalating issues that they cannot resolve themselves. The manager must ensure where there are delays, that these are raised with the Complaints Manager and appropriate steps are taken to revise the plan and deal with the complaint.

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 prompt, appropriate and proportionate remedy.

4.0 COMPLAINTS AGAINST COMMISSIONED PROVIDERS

Complaints about service providers for the Department by a Commissioned Provider, may be made to that Provider in the first instance. They may be referred to the Department if the complainant is not satisfied with the response.

Alternatively a complaint about a Commissioned Provider may be made direct to the Department in the first instance.

5.0 CUSTOMERS RIGHTS

Our customers have the right:

- To be treated with courtesy and respect at all times
- To have their complaint listened to
- To have a friend or other representative help them with their complaint
- To suffer no adverse consequence as a result of making the complaint
- To be kept informed of the progress of their complaint

- To receive an apology if a complaint is upheld
- To be informed of any changes to Council policy or procedures arising from a complaint
- To contact the Local Government Ombudsman if they are not happy with how their complaint is being dealt with

6.0 SEEKING CONTINUOUS IMPROVEMENT

The Department will:

- Use all feedback and the lessons learned from complaints
- Regularly review the lessons learned from complaints
- Where appropriate, tell the complainant about the lessons learned and changes made to services, guidance and policy.