

POLICIES & PROCEDURES

Complaints Policy

Version 7



Purpose:

The purpose of this policy is to set out clear directions which must be adhered to by the Council's Adult Social Care – Complaints Team when managing the complaints process.

Scope:

For people using Adult Social Care services, their representatives, Carers, Advocates, and wider Council colleagues.

1. Objectives

There are two key objectives of this policy. Firstly, we wish to ensure complainants are aware of their rights and how to access support from the Council's Adult Social Care - Complaints Team. Secondly, we wish to ensure that as a Council we respond to complaints appropriately and proportionately and make sure:

- we manage the process well and in a timely manner
- people who use our services have a good experience of the complaints process
- we acknowledge when we have got things wrong and do what is needed to put things right
- we learn the lessons to avoid the same thing happening again
- we do all we reasonably can to support the person to understand and engage in the complaints process
- we do all we reasonably can to reach an outcome from the complaints process that is meaningful for the complainant

2. Introduction

Adult Social Care is responsible for ensuring that adults with eligible needs and their Carers receive the correct support in a fair and efficient way. If problems should occur, it is important that we are told about them as this allows us the opportunity not only to put things right but to make improvements to our service moving forward. This policy seeks to create a positive approach to complaints.

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 individual. They provide feedback on service delivery and provide a means for the individual to have an input into the continuous improvement of the service.

Under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (see Appendix1), the Council has statutory requirements which detail how complaints must be managed. The Statutory Guidance states that:

17.79. Current complaints provision for care and support is set out in regulations.

The provisions 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.

All complaints will be handled in accordance with the law, relevant guidance and the Council's Adult Social Care Complaints Procedure.

3. What is a complaint?

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 this policy.

A complaint 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); this may include an advocate, legal representative, or politician.

Consent - If you are complaining on behalf of someone else, you need to include written consent from them to ensure they are at the heart of the complaints process. We can seek to obtain verbal consent from the person if that is easier. If you cannot obtain consent, we will still look at the situation to make sure the person is safe and well in accordance with our safeguarding duty and we will consider if the matter can be addressed via the Complaints Policy. If you hold Power of Attorney, Deputyship or a Court Order please share this information with the Complaints Team at the point of contact.

A complaint should be made within 12 months of the event complained about, or from the time the complainant became aware of the concern. This timeframe may be extended at the discretion of the Council's Complaints Manager, if the complainant is able to demonstrate a good reason as to why the concerns have not been raised at an earlier stage.

4. How can complaints be made?

We recognise that making a complaint can be a difficult and stressful experience. We seek to minimise this stress and to make it as easy as possible to make a complaint. The Complaints Team encourages any person using Adult Social Care services who has a concern, to first speak to a member of staff in the relevant Social Work Team or to the commissioned Care Provider. 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 straight away or the person wishes to have a formal response, they can do so by raising their complaint to the Council's Complaints Team:

- By email - dasscomplaints@wirral.gov.uk
- By telephone – 0151 666 4810
- In person
- By letter to the:

Complaints Resolution and Information Team (Adult Social Care)
Wirral Council, PO Box 290, Brighton Street, Wallasey, Wirral
CH27 9FQ

5. Responding to Complaints

In the first instance, all complaints will be screened by the Council's Complaints Team to ensure:

- there are no immediate safeguarding concerns*
- the complaint is being made by an eligible person
- the issues complained of fall within this policy
- the complaint is being raised within the relevant timeframe (12 months)

** Should the Complaints Team identify any immediate safeguarding concerns within your complaint, a safeguarding referral will be raised at the earliest opportunity. Section 42 Safeguarding Enquiries take precedence over the complaints process.*

Each complaint will be acknowledged within 3 working days and complainants will be informed of the expected timescale at the outset. After the initial screening, the Council's Complaints Team will determine how each complaint will be managed. This may involve your complaint being allocated to a Social Work Team Manager or Senior Manager to review. This approach may be adopted if the complainant raises concerns about the practice/actions of a Social Care Worker (i.e. Social Worker or Care Navigator) or if a social care decision is being challenged (i.e. assessment process).

The Council's Complaints Team may also choose to ask the commissioned Care Provider to investigate the concerns and report their findings back to the Council's Complaints Team for further consideration/review.

Adult Social Care also provide in-house care and support services including Day Centres and Shared Lives. As noted in Section 4 above, the Complaints Team encourages the person to speak to a member of staff in the relevant service as a starting point as the problem may be resolved on the spot. If the complaint cannot be dealt with straight away or the person wishes to have a formal response, they can do so by raising their complaint to the Council's Complaints Team.

We aim to respond to complaints within 25 working days. 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 Complaints Team is responsible for monitoring progress on your complaint and must ensure, should there be delays, that the complainant is updated. The maximum amount of time allowed to deal with any complaint is 6 months. Should this timescale be exceeded, the Complaints Team will formally write to you to apologise for the delay. The letter will explain the reason for the delay and include a workable timeframe for completion.

Complaints of a more complex nature may require formal investigation. Such investigations will be undertaken by an Investigating Officer within the Complaints Team. 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.

6. The Adult Social Care Complaints Policy does not cover

- Matters for which there is a formal right of appeal through an independent review process
- Matters which are the subject of legal proceedings
- Staff Disciplinary and Staff Grievance matters
- Complaints from Providers about contractual or commissioning issues
- Complaints which have already been investigated by the complaints process/or by the Local Government and Social Care Ombudsman
- Anyone who is self-funding their care and support arrangements and has entered into an agreement independently of the Council with a social care provider (such as a care home or a home-care agency). Self-funders should:
 - first make a complaint directly to the organisation concerned
 - then if dissatisfied with the outcome of the complaint, ask the Local Government and Social Care Ombudsman to review their complaint (See Appendix 2)

7. Complaints against Commissioned Providers

Complaints about services provided on behalf of Adult Social Care by a Commissioned Provider (i.e. care homes, domiciliary care, supported living) may be made to that Provider in the first instance. They may then be referred to the Council's Adult Social Care – Complaints Team if the complainant is not satisfied with the response. Alternatively, a complaint about a Commissioned Provider may be made direct to the Council's Complaints Team in the first instance should the complainant not wish to raise their concerns directly with the Provider. The Care Quality Commission is the independent regulator of health and social care in England (See Appendix 3 - Role of Care Quality Commission).

8. Anonymous complaints

We do not encourage anonymous complaints as it may restrict the investigation; however, we accept that on occasion individuals may choose to make them. Whilst we cannot share any confidential information with an anonymous complainant, we may investigate the concerns raised or share them with a relevant Team (i.e. Contracts, Commissioning, Quality Improvement). Should fault be found, we would continue to implement any relevant service improvements.

If someone is concerned about the safety of a vulnerable adult and wishes to remain anonymous, the safeguarding procedures should be followed.

9. Customer 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 complaints
- 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 and Social Care Ombudsman if they are not satisfied at how their complaint is being dealt with.

10. 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 the person using Adult Social Care services or their representative wish to use an advocate, the Council has commissioned an organisation. This organisation provides free, confidential, and independent advocacy to people who use care and community services in Wirral. If the complainant requires the support of an advocate to assist them through the complaints process, they should contact a member of the Council's Adult Social Care – Complaints Team, who will provide further details and/or refer them to the relevant advocacy agency.

11. Local Government and Social Care Ombudsman (See Appendix 2)

If the complaint remains unresolved after the Council's Complaints Team has issued its response, the complainant can refer the issue to the Local Government and Social Care Ombudsman. The Ombudsman will then advise the complainant of any action that they deem appropriate. The complainant may also refer the matter to the Ombudsman, if they feel that the Council is unreasonably delaying a response.

In almost all circumstances, the Ombudsman will not consider a complaint until it has been dealt with by the Council's own complaint process. The Ombudsman's details are as follows:

Local Government and Social Care Ombudsman
PO Box 4771
Coventry
CV4 0EH
0300 061 0614
www.lgo.org.uk

12. Seeking Continuous Improvement

As discussed within the Introduction section, 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 individual's perspective. 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 Council will:

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

13. Unreasonable and Persistent Complaints (Vexatious)

Wirral Council is committed to dealing with all complaints fairly, however, there are a small minority of complainants whose frequency of contact adversely affect our ability to do our job. On occasion, the Adult Social Care Complaints Team may consider using the Council's Persistent and Vexatious Complaints Procedure. This procedure will only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints in line with the Complaints Policy.

14. Integrated Services

The Council has formally integrated the Adult Social Care assessment and support planning services to both Wirral Community Health and Care NHS Foundation Trust (WCHC) and Cheshire and Wirral Partnership NHS Foundation Trust (CWP). Following this change, complaints can now be presented to either:

- Council's Adult Social Care Complaints Team (as the service commissioner)
- Wirral Community Health and Care NHS Foundation Trust (WCHC) - Complaints Team*
- Cheshire and Wirral Partnership NHS Foundation Trust (CWP) - Complaints Team

* Please note from 1 July 2023, Wirral Community Health and Care NHS Foundation Trust (WCHC) will no longer be providing Adult Social Care assessment and support planning services. Therefore, any complaints can be shared directly to the Council's Adult Social Care Complaints Team from this time.

15. Appendices

Please find below the relevant links:

Appendix 1 - Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 can be found using:

<https://www.legislation.gov.uk/uksi/2009/309/contents/made>

Appendix 2 - Local Government and Social Care Ombudsman can be found using:

<https://www.lgo.org.uk/>

Appendix 3 – Care Quality Commission can be found using:

<https://www.cqc.org.uk/>