

# **RESOLVING COMPLAINTS.....IMPROVING SERVICES**

## **New Policy & Procedure for Adult Social Care Services**

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## **1. Our policy on complaints**

1.1 This policy and procedure on complaints applies to social services provided by the Council's Adults and Community Wellbeing Portfolio in the following areas

- Older people's services
- Services for people with a physical disability & sensory impairment
- Services for adults with learning disabilities
- Community mental health services
- Community substance misuse services
- Supporting People services
- Services to carers
- Emergency Duty Team, when they are providing a service out of hours, in any of the above areas.

Complaints about the areas of the Portfolio which are not concerned with social services will generally be handled within the Council's corporate complaints procedure.

1.2 This complaints procedure is based upon The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, which came into force on 1<sup>st</sup> April 2009. The Regulations simplified the framework for dealing with

complaints. Removing the previous three-stage process which marked local authority complaints procedures for social services since 1990, they set out a requirement that there should be a single investigation and response to complaints raised. The way the matter is handled is to be determined in consultation and agreement with the complainant, on the basis of how serious and far-reaching the concerns raised are.

1.3 We are committed to ensuring that the social services for which the Portfolio is responsible meet the highest quality standards. This applies regardless of whether we provide the service directly, or whether we purchase it from a provider (such as a care home or a home-care service) with whom we have a contract.

1.4 We know that things sometimes go wrong with services, and that staff and managers sometimes make mistakes. When this happens, we believe it is important to put things right, as rapidly and as effectively as possible. Through this complaints procedure, we are committed to working with service users, their advocates, carers and relatives, listening to them and deciding with them the most effective way of sorting out whatever has gone wrong, and putting it right.

1.5 Above all, the way we deal with complaints will be based on

- Customer focus – listening to what people tell us
- Responsiveness – acting on what people say to us
- Promptness – making sure people get answers in good time
- Transparency – dealing openly and honestly with problems
- Proportionality – making sure that the resolution fits the complaint
- Learning – making sure complaints result in changes and improvement

1.6 We also believe that when people who use our services send us comments and compliments based on their experiences, they should be acknowledged, considered and acted upon. This is an important aspect of the dialogue between local people and local services.

1.7 We recognise our responsibility to ensure a high level of awareness of their entitlement to complain among people who use or may be eligible for services. We will therefore make sure in a number of ways that people are informed and reminded that the complaints procedure is available if necessary and they can expect assistance and support if they have cause to use it. Among the ways in which we will meet this obligation are

- Information about the complaints process will be made available in a variety of way eg on the Council website, by means of leaflets and posters
- Service users will be given details by staff members in the course of their work
- Case management correspondence will routinely incorporate references to the right to make complaints
- Dedicated email address for complaints about adult social services

1.8 Also, for this procedure to be of benefit, we think it is crucial for all service users, their advocates, carers and relatives, members of the public, staff, managers and providers of our contracted services to be well informed about how the complaints process works, so that everyone is aware of their rights and obligations rights and

obligations. Recognising that we serve a diverse community, we will therefore make details of the procedure available in a range of formats, in order to maximise its accessibility and to ensure that no individual or group is prevented from using and benefiting from it. This means that we will produce information about how to complain in the following formats

- A customer feedback leaflet
- An easy-read leaflet
- Compact disk
- Cassette tape
- Details summarised in community languages

- 1.9 We recognise that some people who use our services are especially frail or vulnerable, have communication difficulties, do not speak English as a first language or are without the support of family members or friends. If we receive a complaint from such a person, we will ensure that details of an approved independent advocacy service are offered, and we will arrange this if the service user agrees. Where a service user lacks mental capacity, advocacy will always be considered. In cases where a complaint is made on behalf of a vulnerable person by a family member or friend, we will try as far as possible to establish that the complaint reflects the vulnerable person's own wishes. In such cases, we will always consider whether it would be beneficial for the vulnerable person to involve an independent advocacy service, as well.
- 1.10 Whenever we deal with a comment or a complaint, we will look critically at what has happened, to see what lessons we can learn, and ensure that any changes which need to be made are applied, not only in the case being complained about, but across the service. We believe that if Social Services have got something wrong, then we need to put it right, and to make sure that the service user has not lost out as a result. If we conclude, when the process has been completed, that the complaint was not justified, we will provide a full written explanation. In all cases, we will provide clear information about how to take matters further, so that the person making the complaint can decide if that is what they want to do.
- 1.11 We realise that the different procedures which could be applicable when concerns are raised about services (e.g. Adult Protection Procedure, the complaints procedures of other bodies, a provider's own in-house complaints arrangements, disciplinary processes, criminal investigations etc) could result in confusion for service users. In cases like this, complaints staff will ensure that there is consultation and engagement with complainants, and that sound decisions are reached with them about which procedure should take precedence, and why. Where, for example, a complaint raises concerns about any person's safety, the matter will be referred for investigation under the Adult Protection Procedure, and the decision may be taken that action on the complaint will be suspended, pending the outcome. We regard it as crucial however that people are provided with clear information about the possible interplay between different procedures and are reassured that they are entitled to request that any remaining issues can be taken up through this complaints process, once the other process is concluded.
- 1.12 We recognise that many people fear that making a complaint may result in reprisals or in a deterioration of the service provided, and so we offer an assurance that we would regard this as wholly unacceptable, and that we would take very

seriously any concern that this had happened. We will work to ensure that all members of our staff and management have a positive and informed view of complaints, and will give whatever help is necessary to enable people to get due benefit from the procedure.

- 1.13 We positively welcome and value complaints and we will publicise this procedure as widely as we can, in ways that suit different sections of our diverse community. We will also offer people whatever assistance they need to get benefit from the process, and send out complaints publicity material and correspondence in accessible and preferred formats and languages, wherever possible. Whenever translation or interpreting services are required these will be sought through the Council's Equality & Diversity Unit, which assures high standards of service from the interpreting and translation providers with which it contracts.
- 1.14 The overall responsibility for ensuring the Council's compliance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 rests with the Council's Chief Executive. As the 'responsible person' within the regulations, s/he may delegate this function as appropriate.
- 1.15 Responsibility for managing the day-to-day operation of the adult social services complaints process lies with the Business Manager of the Adults and Community Well-being Portfolio who is the designated Complaints Manager, and whose duties and functions may be delegated.
- 1.16 This policy and procedure will be available to members of the public on the Council's website, but hard copies will be provided on request. The complaint leaflet 'Have your say...are we doing OK?' which summarises this information is widely distributed and is available at a range of community contact points, as well as from the Safeguarding & Quality Assurance Unit.

## **2. What is a complaint?**

- 2.1 We define a complaint as

*'An expression of dissatisfaction or disquiet about the actions, decisions or apparent failings of our adult social services provision, which requires a response.'*

- 2.2 We realise that it would be unrealistic to register every such statement within the procedure, particularly in cases where it is possible to deal with the matter of concern there and then. Indeed the 2009 Regulations specify that a complaint which is made orally and which is resolved to the person's satisfaction the same or the following working day, does not need to be registered within this procedure.
- 2.3 It is nevertheless the complainant's right ultimately to decide whether or not the matter of concern should be registered within this complaints procedure. It is crucial therefore that clear information about the procedure is made available in advance, so that complainants can make an informed decision about whether they want to make a complaint using this procedure.

### **3. Who can complain under this procedure?**

3.1 The following are entitled to make complaints under this procedure

- Users of social care services provided by the Adults and Community Well-being Portfolio
- People whose needs have been the subject of an assessment within one or more of the Portfolio's social services areas.
- People whose possible need for a service has been notified to the Portfolio
- People who wish to dispute the Portfolio's assessment of their mental capacity
- Family members, friends, advocates or representatives of people in any of these groups, providing that it is established as far as possible that the service user agrees with the complaint
- People who are or might be affected by an action or decision which is the subject of a complaint

3.2 The Complaints Manager may decline to register a complaint if it appears that it is being brought by a representative who is not acting in the best interests of the service user. Any such decision will be recorded and notified in writing to the complainant.

3.3 Complaints will not be registered more than a year after the matter giving rise to concern arose. Nevertheless, the Complaints Manager may waive this time limit if

- It would not be reasonable to expect the complainant to have made the complaint sooner, and
- It is still possible to deal with the complaint effectively and fairly

3.4 Complaints within the following categories are deemed to lie outside the remit of these procedures and will not be registered or dealt with under this process:

1. Complaints by other local authorities, independent providers or NHS bodies
2. Complaints from staff about their terms and conditions of employment
3. Complaints which are resolved to the complainant's satisfaction by the end of the working day following receipt (see 2.2 above)
4. Complaints of which the subject matter has been previously investigated within the terms of this procedure or another relevant complaints procedure
5. Complaints of which the subject matter has been previously investigated by the Local Government Ombudsman and where no new information has been raised to cast doubt on the Ombudsman's decision
6. Complaints about a failure to comply with the Freedom of Information Act 2000.

Any such matters will be identified by complaints staff prior to acknowledgement.

3.5 Whenever a complaint is received and any of the above exclusions apply, we will (unless point 3.4.3 above applies) acknowledge the matter in writing, explaining why the relevant elements will not be considered within this statutory complaints

process. We will as far as possible continue to deal with any other elements of the complaint which are not affected by these exclusions.

- 3.6 If an anonymous complaint is received, it will as far as possible be registered as usual, and notified to the relevant operational manager. This is particularly important where the anonymous complaint contains information which may need to be considered within the procedure on the Protection of Vulnerable Adults. It is obviously not possible to acknowledge and respond to anonymous complaints, and telephone callers who prefer to withhold their identity will be reminded of this. The substance of any such complaint will however be addressed by the relevant manager.

#### **4. How the process works (see also flowchart below at 13.)**

- 4.1 The purpose of this complaints process is to resolve concerns raised by service users and their representatives, to deliver outcomes which are appropriate and proportionate to the seriousness of the issues and to ensure that changes are made in response to any failings which are identified.
- 4.2 To achieve this, the approach to handling complaints must incorporate the following elements
- Engagement with the complainant or representative throughout the process
  - Agreement with him/her about how the complaint will be handled
  - A planned, risk-based and transparent approach
  - Commitment to prompt and focussed action to achieve desired outcomes
  - Commitment to improvement and the incorporation of learning from all complaints
- 4.3 Complaints may be received through a variety of media (phone, letter, email, feedback-form, personal visit etc) and at various points within the organisation (to staff members, via the respective web addresses, direct to the Safeguarding & Quality Assurance Unit.
- 4.4 Regardless of the medium used or the point where it arrives within the organisation, each complaint must be notified immediately to the Safeguarding & Quality Assurance Unit Unit, so that it can be registered and formally acknowledged within three working days – this is a required and regulatory standard. If the complaint has been received verbally, complaints staff in the Safeguarding & Quality Assurance Unit will make a written account of it which will be sent to the complainant in an appropriate format, along with the letter of acknowledgement.
- 4.5 Either through the acknowledgement letter or by means of direct contact, complaints staff will offer the complainant the opportunity to meet to discuss the matter or to establish his/her desired outcomes. Should the complainant decline a visit or meeting, then the matters set out below at 4.6 will need to be clarified over

the phone, or if this is not acceptable, then by correspondence or failing that on the basis of existing information.

4.6 At a meeting between a member of the complaints staff (usually the Customer Services Co-ordinator) and the complainant, or by whatever other means are preferred by the complainant, agreement will be sought on the following points

- Detailed account of the of complaint
- Complainant's view of the impact which this has had on him/her
- Specific reference to any aspect which requires immediate action within the adult safeguarding/protection procedures
- Details of the outcome(s) which will resolve the matter from the complainant's perspective
- Whether the subject of the complaint could relate, entirely or partly, to another body (eg an NHS body or an independent care provider) and could therefore need a joint approach (see sections 9 and 10 below)
- How the complaint will be investigated, and by whom
- How long it should reasonably take to investigate the matter and to provide the complainant with the Council's formal response
- How often and by what means the complainant will be updated on the progress of the investigation
- Whether an advocacy, translation or other support service is required
- Whether the involvement of an impartial mediator might contribute to a satisfactory resolution of the complaint.

The meeting should result in an agreed Investigation Plan which both parties are content to sign.

4.7 The meeting provides an opportunity for complaints staff to explain how the procedure works and to explain any matters on which the complainant needs clarification. It is at this point also that any desired outcomes by the complainant which are unrealistic or unfeasible should be identified. The outcome of any such discussion must be confirmed in writing at the earliest opportunity.

4.8 The meeting should also ensure the capture of information upon which the issues raised in the complaint can be risk-assessed, for the purpose of ensuring that the mode of investigation is appropriate and proportionate. Accordingly the issues raised are plotted on two axes

- Seriousness (both from the service user's perspective, in terms of harm, risk or other damaging impact, and from that of the service, in terms of risk of litigation or serious damage to reputation)
- Likelihood of a similar failing recurring

The resulting categorisation of the risks raised by the complaint will promote a logical approach to the way forward in managing the complaint, and in providing an indication of the most suitable means of investigating it, in a way which is proportionate to the nature of the concerns raised.

4.9 The receipt of any complaint indicates that something has gone wrong, so it is vital to establish the facts about what happened. For some serious complaints, it will be

necessary to appoint someone independent of the authority to look into the case. In most cases however, complaints will be investigated by a manager from within the Portfolio, who is independent of the service which is the subject of the complaint. The risk assessment process will provide a guide as to which approach should be adopted.

4.10 Complaint investigations may be suspended if the subject of the complaint is subject to criminal proceedings or action under the disciplinary procedure. This is because these are considered to have priority over the complaint investigation process. Once they are concluded, any residual matters of complaint can be investigated. It may also be appropriate to suspend all or part of an investigative process to enable an Adult Protection investigation to proceed. In such cases the Complaints Manager will engage with operational managers to determine the most appropriate course of action. There is no presumption for suspension, and each case will be treated on its merits.

4.11 The Department of Health and the Local Government Ombudsman's Office have both published guidance on the conduct of investigations into complaints

- Investigating Complaints (Advice Sheet 1, DoH 2009)
- Guidance on Running a Complaints System (LGO's Office 2009)

Copies of both are available from the Safeguarding & Quality Assurance Unit. The principles set out should be observed in all complaint investigations under this procedure, whether undertaken in-house or externally.

4.12 Investigating a complaint may involve any or all of the following activities

- Meeting with the complainant
- Reading case file records
- Reading Council policies and procedures
- Accessing relevant law and regulations
- Making site visits
- Interviewing staff and managers

All investigations need to be summarised in a report which is submitted to the senior manager who will respond to the complaint, within the timescale agreed with the complainant when the investigation plan was drawn up.

4.13 The report, of which the nature and level of detail will be proportionate to the concerns raised in the complaint, will contain the following elements

- Description of how the complaint has been investigated
- A judgement of 'upheld' or 'not upheld' in regard to each element
- Conclusions reached, especially in relation to the desired outcomes originally specified in the complaint
- Recommendations for changes and improvements which need to be made following resolution of the complaint (these need to be specified within the Learning Log section of each investigation report)

- 4.14 The report is submitted to the senior manager, usually the Head of Service for the area referred to in the complaint, who is responsible for sending a formal letter of response to the complainant, along with a copy of the investigation report. The letter of response should summarise the salient aspects of the report, offer apologies as appropriate, specify what action will be taken in consequence and set out what broader learning points have been identified, for future implementation. It must also refer to the complainant's entitlement, should s/he remain dissatisfied, to refer the matter to the Local Government Ombudsman.
- 4.15 In the event that the responding senior manager is of the view, on receiving the investigation report, that additional action, communication or liaison could contribute to a surer or more effective resolution of the complaint, s/he may request that this be put in hand, by complaints staff or operational staff as appropriate. Any consequent delay to an agreed timescale should be explained to and agreed with the complainant.
- 4.16 If the complaint is about a proposed change to a care plan, a placement or a service, the decision may need to be deferred until the complaint has been considered. Consideration should always be given to deferring a decision that will have a significant effect upon the life of an individual until the complaint has been considered, always keeping in mind the best interests of the service user. The decision to defer will normally be made through detailed discussion and risk assessment between the Complaints Manager and the Business Manager responsible for the service. In cases where decisions are met with opposing views, the relevant Head of Service will make a final decision.
- 4.17 In seeking to resolve complaints to the satisfaction of service users and their representatives, the underlying aim needs to be to return the person who has suffered a loss, distress, delay or inconvenience as a result of the Council's actions or inactions, to the position in which they would have been, if the failing which gave rise to the complaint had not occurred. This means that the remedy offered should be proportionate to the failing. When a complaint is upheld, the desired outcomes agreed with the complainant at the outset will provide a guide to the means of putting the matter right. If it is not possible to provide a remedy in any other way, consideration should be given to offering the complainant financial redress. This should always take account of the Ombudsman's published guidance on Remedy, and of the appropriate sections of Treasury guidance 'Managing Public Money'.
- 4.18 Unlike the previous complaints arrangements, no specific timescale is stipulated for the specified components of this procedure. The length of time which is allowable will largely be negotiated and agreed with the complainant when the investigation plan is drawn up. In general terms however, the response to most complaints should be sent out within 20 working days. Any additional time required must be explained to and agreed with the complainant, by the Complaints Manager, who remains responsible for keeping the complainant informed throughout the process. Any complaint which remains unresolved after six months will be the subject of formal review by the complaints manager and a Head of Service.

## **5 Advocacy**

- 5.1 If there are particular concerns about the complainant's vulnerability, because of communication difficulties, learning disability or for any other reason, complaints staff will, with the complainant's agreement, seek the appointment of an appropriate independent advocate. Once this has happened the advocate will be entitled to participate on the complainant's behalf in all activities related to the complaint, and speak for him/her, for as long as the complainant agrees, until the matter is concluded.
- 5.2 Details of how the advocate should be involved in the process should be discussed and agreed when the investigation plan is compiled.
- 5.3 The contact details for locally accessible advocacy services will be publicised through the Portfolio information systems and in material which is addressed to users of social care services, both in hard-copy and electronic formats.

## **6 Conciliation and mediation**

- 6.1 The complaints regulations which came into force in April 2009 are less prescriptive than their predecessors. By focussing on the complainant's perspective, the sustainable resolution of concerns and the identification of learning points, they encourage creativity and innovation in the manner in which complaints can be handled.
- 6.2 It is recognised that a complaint investigation may not contribute to the improvement of working relationships between the service user and the staff involved. We will offer service users the opportunity to take part in conciliation, through Safeguarding & Quality Assurance Unit staff, to help resolve issues of concern and to improve working relationships as an alternative to, or in addition to, pursuing action through the complaints procedure.
- 6.3 In certain circumstances, it may be appropriate to propose that a mediation approach be considered. This can be especially useful if there is an actual or a potential breakdown in relationships or communication. It is a means of addressing the disagreements and conflicts which arise in such cases, with the aim of resolving them, on a win-win basis.
- 6.4 There is no single prescribed mediation process, but the two requirements which are essential to successful mediation are
- An impartial mediator who enjoys the confidence of both sides
  - Commitment to and belief in the mediation process
- 6.5 The Council is seeking a contractual relationship with a local mediation provider, with the intention of having a mediation service readily available in approved cases. The possible value and application of a mediation approach should be explored with the complainant at the planning stage (see 4.6 above).

## **7 The Local Government Ombudsman**

- 7.1 Complainants who remain dissatisfied with the proposed outcome after their complaints have been handled within this procedure will be notified by the responsible manager that they are entitled to approach the Local Government Ombudsman, to request that the matter be considered by him. The address of the Ombudsman who covers the Telford & Wrekin area is:

**The Local Government Ombudsman**  
**PO Box 4771**  
**Coventry CV4 0EH**

Phone: **0300 061 0614 or 0845 602 1983** Fax: **024 7682 0001**

- 7.2 People who use the Council's services are in fact entitled to make an approach to the Ombudsman at any point. It is generally the case however that the LGO declines to undertake an investigation until the complaint has been dealt with within the local authority's complaints process.

## **8 Improving services following complaints**

- 8.1 A primary objective of the complaints process is to ensure that mistakes are identified and remedied, and that they are not repeated in future. Achieving this requires analysis of what went wrong, why the mistake was made and what changes are needed to ensure that it does not recur.
- 8.2 Following the resolution of a complaint, one of the following two courses of action must be adopted
- Where the matter has been the subject of internal investigation, the manager undertaking the investigation will complete a Learning Log, and incorporate its conclusions into the report. This will follow a prescribed pattern, and detail the learning points which arose from the complaint and the measures which need to be put in place to minimise the recurrence of mistakes. The report should be submitted to the Safeguarding & Quality Assurance Unit for endorsement, collation and subsequent reporting to the Performance Board.
  - If the complaint was investigated by someone independent of the Council, a formal Learning Outcome Meeting involving relevant managers will be convened by the Safeguarding & Quality Assurance Unit for the purpose of identifying learning points, planning remedial actions, setting timescales and assigning tasks. The outcomes will be reported to and monitored by the Performance Board.
- 8.3 Where the complaint has involved another body (eg an NHS trust or an independent care provider) it will be important to secure the participation of their relevant managers for the purpose of maximising and sharing the learning process.
- 8.4 The complainant should be kept informed about whatever actions are taken as a result of the complaint. Once implemented, the changes or service improvements should be notified to him/her, with a note of appreciation for raising the issue.

## **9 Complaints about services provided under contract (Care Standards/Social Care Provider complaints)**

- 9.1 In considering complaints about services which the Council purchases from independent providers, there is a distinction between the authority's responsibilities and those of the provider of the service. The Council is responsible for commissioning and purchasing services, arranging placements, (re-)assessing individual needs, monitoring the adequacy of particular packages of care etc. The provider is responsible for ensuring that the service provided meets the necessary standards, as set out under the Care Standards Act 2000 (and from 1<sup>st</sup> April 2010 under the Health & Social Care Act 2008) and complies with the respective regulations. The provider must also comply with the requirements of its contract with the authority.
- 9.2 Each of the independent providers from whom the Council purchases services is required to have arrangements for handling complaints about the service it provides (known as 'Care Standards complaints' or 'Social Care Provider complaints'). These arrangements have to be sufficiently robust and effective to enable the provider to deal with complaints promptly, fairly and in a way which is proportionate to the concern raised, without the need to refer the matter elsewhere for action. The arrangements which the provider has in place for this purpose must also comply with the respective regulations and National Minimum Standards prescribed by the Department of Health, and monitored by the Care Quality Commission
- 9.3 While the Council is accountable through this complaints procedure for the way in which it carries out its own obligations, it is not primarily responsible for Care Standards complaints/ Social Care Provider complaints. These are for the provider to handle within the arrangements prescribed in the relevant regulations. Nevertheless, as part of its commitment to improve services, Telford & Wrekin will seek to ensure that all complaints which arise within the services which it purchases are properly and satisfactorily resolved
- 9.4 In cases where the provider's final response to a Care Standards/Social Care Provider complaint proves unsatisfactory to the complainant, the complaint may be referred to the Service Standards Unit, for a consideration of further options, which could include
- Action within the adult social services complaints procedure
  - Action taken by the contracting/commissioning unit
  - Referral to the Care Quality Commission for their consideration of regulatory action
- 9.5 If the Portfolio receives a Care Standards/Social Care Provider complaint, complaints staff will the same or the next working day ask the complainant whether s/he wants the matter to be passed to the registered manager of the service concerned. If so, the matter will be sent to the registered manager within 3 working days. The Portfolio will also notify the Care Quality Commission of any such complaint, and liaise as necessary with its staff.

- 9.6 Where a complaint received by the Portfolio includes aspects which relate both to Care Standards/Social Care Provider matters and to the way in which the Portfolio has carried out its duties, the complainant's permission will be sought to pass the relevant information to the registered manager of the service. Portfolio staff will then collaborate closely with the provider and with the complainant, within the remit of this complaints procedure in order as far as possible to provide a single co-ordinated response to the complainant.
- 9.7 The distinction between areas of complaint which are Care Standards/Social Care Provider matters and those which properly fall to the Portfolio to deal with is not always self-evident. In general terms, if the matter being complained about is one where the provider service is acting or carrying out a function on the local authority's behalf, then it will fall within the remit of this complaints procedure.

## **10 Complaints which are partly about National Health Service bodies**

- 10.1 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, which came into force on 1<sup>st</sup> April 2009 put complaints about adult social services and about the NHS on the same legal and procedural footing. This means that, although each authority and NHS trust will operate its own procedure, the processes, ethos and aspirations of each will be similar. The regulations impose a 'duty to co-operate' on local authorities and NHS bodies, with respect to complaints.
- 10.2 Adult social services not only collaborates closely with local NHS trusts but also provides services jointly in some cases, including
- Community Mental Health services
  - Community Learning Disability services
  - Community Substance Misuse services
  - Intermediate Care services

It is therefore necessary to clarify the manner in which complaints which may cross traditional service boundaries are to be handled, so that people who bring complaints are provided with prompt considered responses and are clear about how cross-cutting matters will be handled.

- 10.3 A collaborative approach to cross-cutting complaints will rely on close communication, contact and engagement between complaints staff in the Portfolio and in the NHS trusts, on relevant complaints. A protocol to which all local authorities and NHS trusts within the Staffordshire and Shropshire sub-region are signatories has been agreed for this purpose, and is an adjunct to these procedures.
- 10.4 If a complaint received by the Portfolio appears in part to require a response from an NHS body, Safeguarding & Quality Assurance Unit staff will notify the complainant within 3 working days of its intention to collaborate with the NHS body as regards
- Identifying which agency will take the lead in the complaint

- Establishing a joint investigation plan
- Providing a single co-ordinated response

10.5 It is vital that the written consent of the complainant is obtained before personal information is passed to complaints staff in the PCT. When this is received, those aspects of complaint which are for the PCT to address must be sent to them without delay.

10.6 When the Portfolio receives a complaint which appears not to relate to social services functions at all, but to apply solely to the remit of an NHS trust, Safeguarding & Quality Assurance Unit staff will ask the complainant within 3 working days for permission to pass that part to complaints staff in the NHS trust. When consent is received, the complaint must be sent to them without delay.

## **11. Unacceptable behaviour and vexatious complainants**

11.1 The Adult & Consumer Care Portfolio is committed to providing an inclusive, responsive and easily accessible complaints process for adult social services. It will generally not impose restrictions upon the way in which complainants are able to contact or communicate with staff members.

11.2 In line with the authority's duty of care however, staff are entitled to protection from complainants whose behaviour is abusive, offensive or threatening. In such cases, the Complaints Manager will inform the complainant why his/her behaviour is considered unacceptable and ask him/her to change it. If this has no effect, possible ways forward will be discussed at a formal (minuted) strategy meeting, convened and chaired by Safeguarding & Quality Assurance Unit staff. Decisions and action in such cases must be consistent, proportionate to the concerns, time-limited and subject to review at least annually.

11.3 Among the possible measures available are

- Restriction of access to Portfolio sites
- Routing of all contact with the person through a named staff member
- Requiring contact with the person to be by letter only
- Proposing a formal agreement with the complainant about his/her behaviour
- Accessing legal advice regarding obtaining an injunction
- Notification to the police
- Notification to the keeper of the Council's Personal Safety Precautions Register

11.4 Whilst no single definition of a vexatious complainant exists, vexatiousness may include some or each of the following

- Repetition of identical or similar complaints, but failure to accept any outcome
- Unwillingness to accept the terms of the complaints procedure
- Excessive focus on the complaints process, as opposed to the desired outcome
- Focus on unrealistic and unachievable outcomes

- Unreasonably persistent and repetitious contact with the Portfolio
- Tendency to approach different parts of the organisation, in the apparent hope of eliciting different responses
- Aggressiveness, personal abuse and threatening manner

11.5 Subject to any considerations about unacceptable behaviour, it is crucial to ensure that the substance of any complaint which seems to be being pursued vexatiously is considered and investigated with the same rigour as any other complaint, as far as possible. Only on this basis could the Portfolio justify any later course of action which had the effect of treating the complainant differently from others.

11.6 The basis on which a vexatious complainant might be treated differently from any other complainant stems from the authority's obligation to deploy its resources as fairly as possible. This entails avoiding using resources disproportionately and unproductively in respect of some individuals. Responding to vexatious complaints can be stressful to the staff involved and the authority's duty of care to its employees requires appropriate remedial action to be taken in such cases.

11.7 As in the case of unacceptable behaviour, the manner in which the portfolio deals with vexatious complainants must be agreed at a minuted strategy meeting. The actions agreed which may include several of those listed at 11.3, must be consistent, proportionate to the concerns, time-limited and subject to review at least on an annual basis.

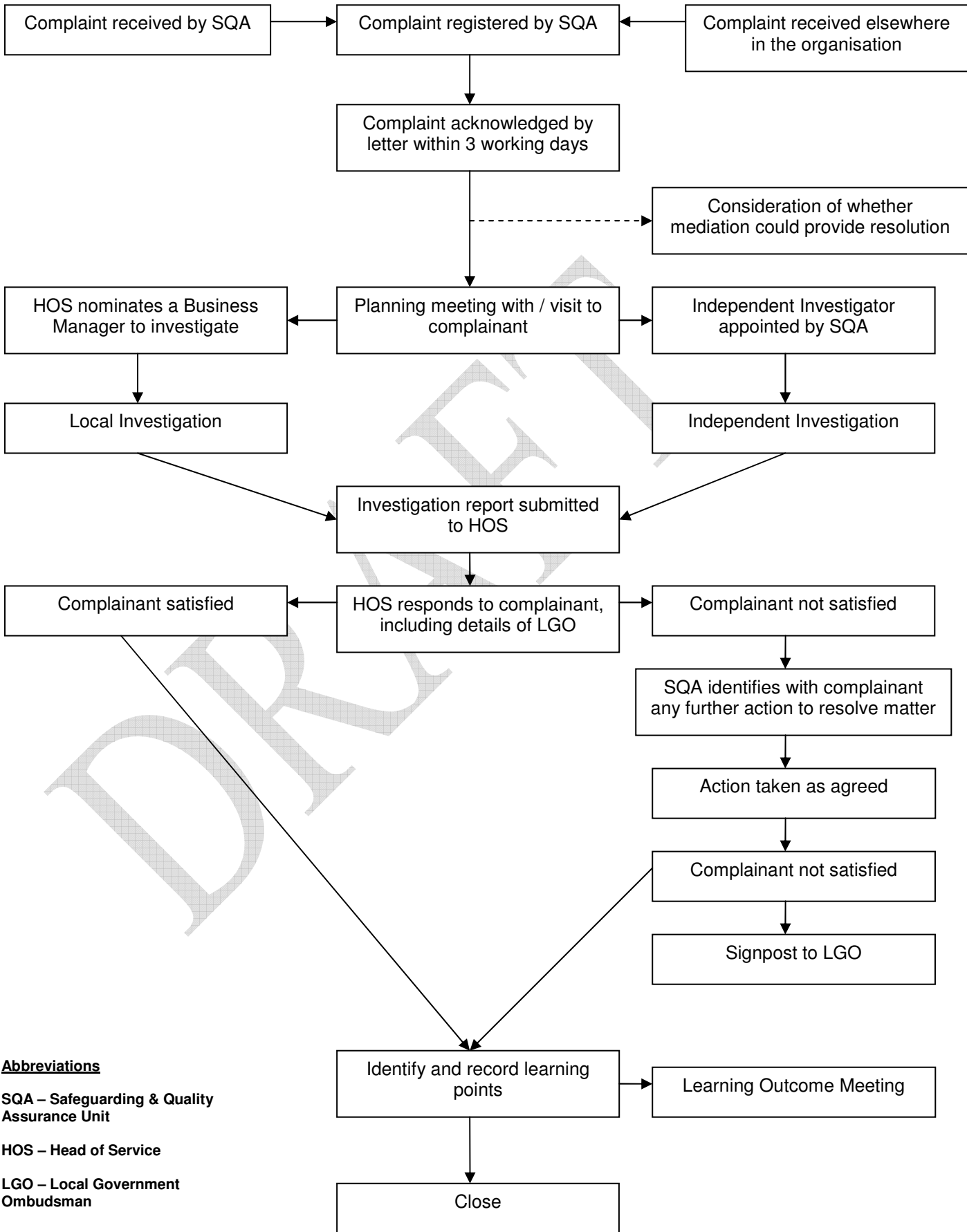
## **12. Performance monitoring**

12.1 Activities undertaken within the complaints procedure will be reported on a quarterly basis to the Adults and Community Well-being Portfolio's Performance Board, and will be summarised in an Annual Report which will be published on the Council's website.

12.2 In considering complaints performance, particular attention will be paid to

- Number of complaints arising in each service area
- Proportion which were upheld on investigation
- Significance of any common themes which emerge from complaints
- Extent of compliance with agreed timescales
- Extent of service user satisfaction with the operation of the process
- Number of complaints which have not been resolved within the process, and are referred to the Ombudsman
- Changes and improvements which occur in consequence of complaints

### 13. Flow Chart setting out the statutory complaints process for Adult Social Services



**Abbreviations**  
 SQA – Safeguarding & Quality Assurance Unit  
 HOS – Head of Service  
 LGO – Local Government Ombudsman