

TELFORD & WREKIN COUNCIL

CABINET – 10th NOVEMBER 2009

COMPLAINTS POLICY & PROCEDURE FOR ADULT SOCIAL SERVICES

REPORT OF INTERIM CORPORATE DIRECTOR ADULTS & COMMUNITY WELL-BEING

1.0 PURPOSE

The purpose of this report is to seek Cabinet's approval and endorsement for the attached draft Council policy and procedure for the management of complaints arising from Adult Social Services. This item is required following the implementation of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, which came into force on 1st April 2009.

2.0 RECOMMENDATIONS

That the statutory complaints policy and procedure for Adult Social Services be noted and approved.

3.0 SUMMARY

3.1 This report describes the draft policy and procedure for complaints about Adult Social Services. It covers the function of the policy/procedure, its aspirations and its ambitions. It stresses the location of the management and resolution of complaints within an organisational learning and service improvement context. It emphasises the linkage between the policy/procedure and related complaints systems, notably those of local NHS bodies, who are now subject to the same complaints regulations, those of the independent care providers with whom the Council contracts, and those of the Local Government Ombudsman.

4.0 PREVIOUS MINUTES

4.1 Not applicable

5.0 INFORMATION

5.1 Background

- 5.1.1 Complaints about social services have since 1990 been the subject of separate regulatory arrangements. Consequently the policy and procedure stands alongside but is different from the Council's corporate complaints procedure.
- 5.1.2 The attached policy and procedure has been produced for the purpose of ensuring that the Council complies with the new regulations
- 5.1.3 The key requirements of the new regulations include:
- a firm emphasis on the complainant's participation in determining how the complaint should be handled
 - more flexibility available than before in how complaints should be handled, opening up the possibility of engaging conciliation and mediation processes, assuming in each case that the complainant consents
 - a welcome emphasis on offering a proportionate response, on the basis of actively screening and risk-assessing complaints
 - Removal of timescales with a requirement that an initial agreement to be reached with the complainant on a reasonable time in which to undertake an agreed process
 - A strengthened link between complaints and the learning and service improvement process including the identification of learning outcomes in all complaints.
- 5.1.4 The previous three-stage complaints process has been replaced with a one stage process. If the complainant is not satisfied with the outcome and wishes to pursue it further then the next stage is a request by the complainant to the ombudsman. There can be no intervening stages within the Council's complaints framework.
- 5.1.5 We therefore need to agree clearly with the complainant what the issues are, how the complaint will be handled (i.e. is it amenable to investigation in-house or is it necessary to appoint an independent investigator?) and what is a reasonable timescale, in advance of a single investigative process.
- 5.1.6 This represents a major change in approach – unless a complaint can be resolved to the complainants satisfaction by the end of the working day following receipt it be the subject of a formal investigation by a manager who is located at a distance from the service in question and who needs to reach a decision whether to uphold the complaint or not, and to identify and record learning points.
- 5.1.7 It should be noted that each complaint needs to be formally signed off by someone other than (and by implication more senior than) the person who undertook the investigation. This responsibility is located with the Head of Service.

- 5.1.8 The new regulations apply equally to local authorities and to NHS bodies, thus sweeping away the previous obstacles to collaboration on cross-cutting complaints. There is a renewed Duty to Co-operate shared by local authorities and NHS bodies, and locally this is reflected in the draft policy/procedure and to be implemented through an updated protocol (attached as a background paper) to which each of the relevant agencies in the Shropshire and Staffordshire sub-region are signatories.
- 5.1.9 The interface on complaints between ourselves and our contractual provider partners in the independent sector has not been clarified by the regulations as much as we hoped it might be. The draft procedure therefore states that if a complainant is dissatisfied following a provider's final response to a Care Standards/Social Care Provider complaint, they are entitled to refer the matter to the Council who may deal with it in a variety of ways – but not necessarily by means of a formal investigation. Consultation with the Ombudsman on this specific point indicated that the Council needs to 'own' the complaint, if the provider was acting on the Council's behalf. In consequence we will adopt a coherent line on complaints of this type and utilise a range of available responses as appropriate such as contract compliance measures and a range of commissioning tools.
- 5.1.10 Apart from the policy/procedure itself, the implementation process will require the production of a range of additional materials, including a new complaints form (already in use), new publicity material, alternative format information, staff information booklet. In addition, there needs to be a training/briefing initiative for all social services staff to be developed and offered over the next few months.

5.2 Equality and Diversity

- 5.2.1 The Council's adult social services address the needs of some of the most vulnerable members of the community. We recognise our responsibility to ensure that no-one's vulnerability is compounded by discriminatory procedural arrangements, and that everyone has access to the possibility of redress for any wrongs suffered.
- 5.2.2 The complaints policy and procedure for adult social care sets out to be accessible to all service users, regardless of their needs and background, and to ensure that advocacy, translation and interpreting services are available on request whenever necessary.
- 5.2.3 The draft document has been the subject of an Equalities Impact Assessment, which has involved submitting it to a number of community and advocacy organisations, such as Age Concern, TREDP, Taking Part etc, for their comments and suggestions.
- 5.2.4 The policy has been written with access and equalities in mind. Alternative versions on CD, cassette and Easy-Read, as well as

summaries in community languages will be produced as part of a planned launch.

5.3 Environmental Impact

No environmental impact

5.4 Legal Comment

5.4.1 From 1st April 2009, the NHS and Social Care complaints procedures have been revised and are now governed by the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (the majority of which came into force on 1st April) which were subsequently amended from 1st September 2009 by the Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009. The remaining Regulations 2(3) and 11 will come into force on 1st October 2010.

5.4.2 Relevant guidance entitled “Listening ,responding ,improving: a guide to better customer care “ was published by the DOH on 26th February 2009.”

5.5 Links with Corporate Priorities

5.5.1 The policy and procedure will link with the following corporate priorities

- Promoting healthy communities and improving the quality of life for vulnerable and older people
- An efficient and effective customer-focussed council that delivers value for money for the community

5.6 Opportunities and Risks

5.6.1 The opportunities and risks associated with this decision/option/project have been identified and assessed. Arrangements will be put in place to manage the risks and maximise the opportunities that have been identified.

5.7 Financial Implications

The procedures described in the policy offer advantages in the resolution of complaints, but do not include obligations which would result in any significant additional costs to the Portfolio. The mediation service offered does have the potential to incur additional costs if utilised, but these will be met from within existing budgetary provision.

6.0 WARD IMPLICATIONS

6.1 District Wide Implications

7.0 BACKGROUND PAPERS

7.1 The following two background papers are submitted

- Draft complaints policy/procedure for adult social services
- Draft inter-agency protocol on collaboration in complaints work, between the local authorities and NHS trusts in the Shropshire/Staffordshire sub-region

End of Report

***Report prepared by Dave Robson, Service Standards Manager,
Tel 01952 381101***