

Adult Social Care

Complaints Policy

Author: Elaine Healy

Contact: complaints@luton.gov.uk

Version: 1.0 (published)

Last updated: October 2024

Contents

- Complaints Policy 1
- Contents 1
- 1. Scope 2
- 2. Support to make a complaint..... 2
- 3. Timescale for response 3
- 4. Complaints involving other organisations and our duty to co-operate 3
- 5. Exclusions 5
- 6. Annual reports 6

1. Scope

- 1.1 We are committed to ensuring that Adult Social Care (ASC) meet the highest quality standards. This applies whether we provide the service directly or whether we purchase it from a provider (such as a care home or home care service) for whom we have a contract.
- 1.2 We understand that some people have concerns about making complaints, as they worry about losing a service or being treated unfavourably. A complainant will not be victimised because of making a complaint and all feedback, whether negative or positive, is welcomed by the department.
- 1.3 This appendix provides additional information specific to ASC complaints. This is because we have specific legislation and guidance that we need to account for, including:
[Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#)
[Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#)
[Care Standards Act 2000](#)
However, please note, this appendix should be read in conjunction with the main policy and not in isolation.
- 1.4 Any deviation or additions to the main policy will be identified within this appendix.

2. Support to make a complaint

- 2.1 We recognise that some people who use our services are especially vulnerable, have communication difficulties or do not have any family or friends to support them. If we receive a complaint from such a person, we will assist them in understanding our procedure and share details of an independent advocacy service and arrange this if the complainant agrees. Where a complainant lacks mental capacity, advocacy will always be considered.
- 2.2 An advocate is entitled to participate on the complainant's behalf in all activities related to the complaint until the matter concludes. The complainant may withdraw their agreement to independent advocacy at any time throughout the process.
- 2.3 We often find that complainants are happy to be supported with their complaint by family members or friends as their representative. Where a complaint is made on behalf of a vulnerable person, we will try as far as possible to establish that the complaint reflects the vulnerable person's own wishes. In such cases, we will consider whether it would be beneficial for an independent advocate to still be involved. A representative can act on behalf of a person who:
 - a) has died;
 - b) is a child;
 - c) is unable to make the complaint themselves because of physical incapacity or lack of mental capacity;
 - d) has requested the representative to act on their behalf.
- 2.4 A representative must be able to show they have reasonable authority to represent the complainant or make a complaint on their behalf and be seen as acting in their best interests. In considering reasonable authority and best interests, the investigating manager will consider factors such as primacy of relationship, its nature and length or whether the person has appropriate powers of attorney.

- 2.5 If we have cause to believe a representative is not acting in the best interests of a vulnerable person or they are not suitable to represent them, the complaint will not be considered. Any decision that a person is not suitable to represent a complainant will be sent in writing to the proposed representative with, as far as possible, the reasons for the decision.
- 2.6 Due regard will be paid to data protection matters when dealing with third parties.

3. Timescale for response

- 3.1 When we acknowledge an adult social care complaint (within 3 days), the investigating manager will, at a time agreed with the complainant, offer to discuss:
- a) the manner in which the complaint is to be handled;
 - b) the period within which the investigation is likely to be completed and the outcome sent to the complainant; and
 - c) how we will keep a complainant updated on the progress of the investigation

The investigating manager will record the outcome of the discussion on our complaints database system

- 3.2 If a complainant does not accept the offer of a discussion, then we will determine the response period and notify the complainant in writing of that period. The investigating manager will consider in this timeframe:
- a) the complexity of the complaint; and
 - b) an overall assessment of risk regarding the seriousness of the complaint, the impact and risks to those involved in the complaint and the likelihood of reoccurrence

We will aim to respond to all complaints as soon as reasonably practicable and in line with the timeframes as stated in our corporate policy. However, in view of the complexity of complaints we receive, on occasion they may take longer to resolve. Therefore, in exceptional circumstances, we may account for a period of up to six months. Should an expected timeframe for completion extend beyond these timeframes or change significantly from our initial assessment, this would first be subject to scrutiny and oversight from Luton Council's centralised Complaints Team. In instances of a revised timeframe, we will write to the complainant to outline the reasons for this and advise the updated timeframe for completion.

4. Complaints involving other organisations and our duty to co-operate

a) Service providers

- 4.1 We recognise that there can be an area of confusion between our responsibility for complaints and those of other organisations delivering services on behalf of the council. For example, care homes, home care and supported living services, known collectively as 'social care providers'.
- 4.2 The council is responsible for assessing and reviewing individual needs, arranging placements and commissioning and purchasing services. Social care providers are responsible for ensuring that the service being provided meets the necessary standards as

set out under the Care Standards Act 2000 and the Health and Social Care Act 2008 and respective Regulations. A social care provider must also comply with the requirements of the contract we have in place with them.

- 4.3 Each social care provider that we purchase services from is required to have arrangements for handling complaints about the service it provides. These arrangements have to be sufficiently robust and effective to enable them to deal with complaints promptly, fairly and in a way which is proportionate to the concern raised. This requirement is overseen by the Care Quality Commission (CQC), the regulator for health and social care regulator. [CQC Explanation of Regulation 16 Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#)
- 4.4 Where someone wishes to complain about a service from a provider, we will ask you in the first instance to take this up with the provider directly. This is so they can deal with complaints in line with the relevant Regulations.
- 4.5 We retain responsibility and accountability for the services we commission, including placements out of borough and will seek to ensure, through our quality assurance activities and processes in relation to providers, that all complaints which arise within the services we purchase are properly and satisfactorily resolved.
- 4.6 In cases where the provider's final response to a complaint proves unsatisfactory to a complainant, the complaint may be referred to us for consideration of further options. This may include:
- a) action under our complaints procedure
 - b) action taken by the council's Commissioning, Quality Assurance and Care Placement team
 - c) referral to the Care Quality Commission for their consideration of regulatory action
- 4.7 If a complainant is unwilling or unable to direct a complaint to a provider in the first instance we will ensure that we have consent from the complainant to pass the complaint on to the provider and then arrange to coordinate a response.
- 4.8 We will request consent to share aspects of a complaint with providers if it relates to both direct complaint about a provider alongside complaint about how ASC has executed its duties. In such instances we will collaborate closely with the provider and the complainant in order to provide a single coordinated response to the complaint where possible.
- 4.9 If a complainant does not consent to us sharing the relevant element of their complaint with a provider, the complaint that relates directly about the provider will not be possible to progress. However, where possible, we will still seek to address any identified issues with the provider without naming the complainant.
- 4.10 When a provider issue is raised, as with all complaints we receive, we will consider whether this is also a safeguarding matter. Where a safeguarding matter is identified our safeguarding procedure will be instigated and followed. We will also consider whether any complaint raised needs to be referred to the CQC as the regulator. The CQC will not investigate complaints about care providers unless this relates to compliance with Regulations. However, you can use CQC's '[Feedback on Care](#)' form to submit both good and bad experiences of care.

b) East London NHS Foundation Trust (ELFT)

- 4.11 Social care mental health services for adults in Luton are provided on behalf of Adult Social Care by ELFT as part of a formal agreement. ELFT will therefore deal with complaints about mental health services that they provide directly. You can access information about this process here:

[ELFT Complaints, Comments and Suggestions](#)

- 4.12 Paragraphs 4.6 – 4.8 would also be applicable to complaints regarding ELFT.

c) Health & NHS Continuing Healthcare (CHC) Complaints

- 4.13 If your complaint is about primary care services such as GPs, dentists, opticians or pharmacy services, you should contact the Bedfordshire, Luton and Milton Keynes Integrated Care Board (BLMK ICB). You can access information about this process here:

[BLMK ICB Enquiries, Concerns and Complaints](#)

- 4.14 We sometimes arrange packages of care that are funded through NHS Continuing Healthcare for those with a primary health need. NHS Continuing Healthcare is not necessarily forever, and everyone will be reviewed regularly. If your complaint is about NHS Continuing Healthcare only then the appeals process should be used in the first instance. You can access information about this process here:

[NHS Continuing Healthcare](#)

d) Cross departmental complaints

- 4.15 Where a complaint encompasses more than just Adult Social Care, departments will cooperate with each other to ensure complainants receive a satisfactory response. This will be centrally facilitated where necessary and a lead department assigned for the response.

5. Exclusions

- 5.1 Exclusions to making a complaint regarding Adult Social Care include but are not limited to:

- a) the complainant is abusive or makes threats to staff in the course of submitting the complaint
- b) the complaint is deemed to be vexatious and/or persistent in line with the corporate policy definition
- c) the complaint appears to be substantively undistinguishable from one that has already been submitted by, or on behalf of, the same complainant, and has received a written response through this policy
- d) the complaint concerns the behaviour of an individual who is not employed by the council, or in receipt of payment from the council, to provide a service. In some instances, our Safeguarding Procedure may need to be followed
- e) the complaint is from someone who is self-funding their care, except where it relates to a council intervention

- 5.2 If we exclude a complaint under this policy, we will write to the complainant outlining the reason(s) for this.

6. Annual reports

6.1 At the end of each financial year, we will prepare an annual complaints report, which will include:

- a) the number of complaints we received
- b) the number of complaints we upheld
- c) the number of complaints referred to the Local Government and Social Care Ombudsman (LGSCO)
- d) a summary of complaint themes, learning points and actions taken to improve services as a result of complaints received

6.2 If the annual report is not published on [the luton council website](#) it will be made available on request.