

# Adult Social Care Statutory Complaints Policy

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## 1. Introduction

There are times when things go wrong, and as part of our commitment to high-quality, personalised services we want to listen to your complaints so that we can resolve your concerns, learn from mistakes and improve services. Adult Social Care welcomes complaints as when we implement learning from complaints, it is a way of ensuring services are effective, personal and safe. This is because listening to the experiences of people who receive services and acting on their feedback helps to improve quality. When mistakes are put right, future problems can be avoided.

We define a complaint as 'an expression of dissatisfaction about a Council service (whether that service is provided directly by the Council or by a contractor or partner) that requires a response.'

The Council has a duty to ensure that any resident (or appropriate person acting on their behalf with their consent or Power of Attorney) who wishes to make a complaint about the actions, decisions, or apparent failings of the Council's Social Care provision, have access to the Adult Statutory Social Care Complaints Procedure.

When making a complaint you should expect:

- To be treated with courtesy and respect
- Reasonable Adjustments if needed (under the Equalities Act 2010) to help you understand the complaints procedure and to make your complaint
- That your complaint is investigated efficiently and properly
- A timely response with a clear outcome and identification of any learning that will take place as a result

## 2. Legislation

There is a legal requirement for the Local Authority to have in place a complaints procedure, in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 for the management of Social Care complaints.

The Regulations cover Adult Social Care and Health Services and/or any of its commissioned services and/or independent services.

## 3. Who can make a complaint

A complaint can be made by:

- A resident who has received Adult Social Care services

- A person who is likely to be affected by the action, error, or decision of Adult Social Care services. This could mean a person who has received an adult social care assessment but has not met the criteria to receive support.
- A representative of a resident receiving Adult Social Care services, such as a family member, if they have consent or Power of Attorney

If a person receiving Adult Social Care services is unable to provide consent for their representative to make a complaint, the Complaints Manager may decide not to accept the complaint, if there is evidence that the complaint is not being made in the person's best interests.

#### **4. Time limit for making a complaint**

A complaint will not usually be accepted more than 12 months after the incident being complained about took place.

The Council may agree to investigate a complaint 12 months or more after the event if the complainant has good reasons for not making the complaint within the time limit, or the Council decides it is still possible to investigate the complaint effectively and fairly.

If your complaint is not accepted and you are unhappy about the decision, you can contact the Local Government and Social Care Ombudsman (section 16).

#### **5. What can be complained about**

Adult Social Care is accountable for all the services it provides. A complaint can be made about any matter connected with Adult Social Care's statutory functions such as:

- The quality of services
- An unwelcome or disputed decision
- Delays in providing services or decisions
- Delivery or non-delivery of services, including the complaints process
- Quantity, frequency, or cost of a service
- Communication or the behaviour of staff

#### **6. Complaints that cross with other policies and procedures**

The Complaints Manager may use discretion to decide that a complaint or certain parts of a complaint cannot be investigated through the Adult Statutory Social Care Complaints Procedure if the same matters are being looked into through another process. Examples are:

**Adult Safeguarding** – complaints can still be made at the same time as an ongoing adult safeguarding enquiry, but some parts of the complaint may not be taken forward if those same issues will be determined through the safeguarding process.

Also, the Complaints Manager may not accept a complaint from a representative who is being investigated as part of an adult safeguarding enquiry, if it is felt that the complaint is not being made in the best interests of the person receiving services.

**Legal/insurance claims** – as above, if some issues are being investigated through a legal process, the Complaints Manager may decide that a complaint, or certain parts of the complaint, cannot be taken forward through the Adult Statutory Social Care Complaints Procedure.

## 7. Corporate Complaints

Whilst most complaints for Adult Social Care will be investigated through the Adult Social Care Statutory Complaints Procedure, there may be occasions where the Corporate Complaints Procedure will be used.

Adult Social Care are in contact with a range of people, not all of them will be receiving statutory social care services.

The Complaints Manager will decide when the Corporate Complaints Procedure should be used. Further information can be found on our webpages.

<https://www.wandsworth.gov.uk/the-council/have-your-say/make-a-complaint/>

## 8. Exclusions from the Adult Statutory Complaints procedure

The Complaints Manager will always advise on the correct procedure to consider any matters brought to their attention; however, the following matters will not be considered through this complaints procedure:

- A complaint that can be put right no later than the next working day after the complaint was made. This is a low-level complaint.
- When the issue is about something other than Adult Social Care service provision and the Corporate Complaints Procedure would be more appropriate.
- When the same complaint has previously been investigated through these procedures or has been investigated by the Local Government and Social Care Ombudsman.
- A complaint made by a staff member about their employment – these are dealt with through Human Resource (HR) procedures.

- Any complaints that are made by people or organisations working with the Council in their professional capacity, for example, another local authority or an external provider or contractor. This complaints process is for complaints made by members of the public.
- An issue that would fall under Information Governance procedures; Subject Access requests, Freedom of Information, a data breach or Right to Rectification. This includes complaints about a failure to comply with a request for information under Freedom of Information Act (2000).
- A complaint that has been investigated by a local commission, other legal process, or judicial review.
- A complaint relating to a Court decision/ruling or a criminal investigation.
- Where there are separate Appeals processes.

## 9. Complaints about Commissioned Care Providers

### Commissioned care providers

A commissioned care provider is an organisation that is contracted by the Local Authority to provide services on its behalf. The provider will have its own complaints procedure to deal with any complaints relating to those services provided. Providers contracted by the Council are required to inform the Council of all complaints being reviewed under their procedures and the action taken in response to the complaints.

If you complain about a contracted care provider, we will ask for your consent to share details of the complaint with the provider.

If the care provider service has not had the opportunity to investigate your complaint through its own process, the Complaints Manager may ask you to attempt resolution with the contracted care provider. If you do not feel resolution is possible, or you have already attempted to resolve your complaint with the provider, the Council will investigate.

However, **you do not have to complain twice**; if you have been through the contracted care provider's complaints procedure you can go straight to the Local Government and Social Care Ombudsman.

### Service Concerns

Service concerns are a quick and effective way of dealing with lower-level issues about a contracted care provider if you do not want to make a formal complaint. The Quality Assurance and Contract Monitoring Team aim to provide an outcome on these concerns within seven working days. The Complaints Manager will always discuss the best way to resolve the issues, depending on the seriousness, urgency and your

wishes. If you chose to use the service concern process this will need to be completed and if resolution is not achieved, then you can proceed to raise a formal complaint.

## **10. Complaints from residents using Direct Payments or fully paying for their social care**

### **Direct Payments**

Direct Payments are payments of money that Adult Social Care make to residents with eligible care needs, to arrange their own care and support, instead of the Council arranging the service.

If you have a Direct Payment and have arranged your own care and support, you can complain directly to the care provider using their complaints procedure and go straight to the Local Government and Social Care Ombudsman if the care provider has not resolved the complaint.

However, the Council will investigate your complaint if you do not feel able to complain directly to your care provider.

### **People fully paying for their social care**

If you have been assessed by Adult Social Care as a full cost payer (meaning that the Council has assessed your social care needs and completed a financial assessment for you), and you are paying 100% of your care costs, the Council can still investigate your complaint if you do not feel able to complain directly to your contracted care provider.

## **11. Complaints from people privately arranging their care (self-funding)**

If you have arranged and paid for your care using your own money, without the involvement of Adult Social Care to assess care needs, you should complain directly to your care provider using their complaints procedure.

If the care provider has not resolved your complaint the next stage is the Local Government and Social Care Ombudsman.

People who have privately arranged and paid for their care can still share a copy of the complaint with the Council as the information is useful as part of Adult Social Care's ongoing quality assurance and contract monitoring of care providers in Wandsworth.

## 12. How to make a complaint

Please don't be afraid to make a complaint, it will not count against you in any way.

There are different ways that you can make a complaint.

- You might be able to resolve the issue quickly by discussing it with the member of staff dealing with it or their manager. If you do not know their name or have their contact details, the Complaints Team can help.
- You can also complain directly to the Complaints Team. You can do this by:

Completing an online complaints form on the website at:  
<https://www.wandsworth.gov.uk/the-council/have-your-say/make-a-complaint/>

Writing to the Complaints Team at:

Freepost RTKU EGLA ZZGT  
Room 162  
Wandsworth High Street  
Wandsworth, London  
SW18 2 PU  
Email: [adultscomplaints@wandsworth.gov.uk](mailto:adultscomplaints@wandsworth.gov.uk)  
Phone: 020 8871 7648

## 13. The complaints process

The complaints procedure aims to:

- Be open, accountable and fair
- Focus on you, the person receiving services
- Put things right
- Find ways to improve services

### Early Resolution

Telling us about any problems as they arise is the first step in putting matters right. Don't be afraid to comment or complain, we need to know what you think about our services, especially if they are not being delivered in the right way.

## Next steps

If an early resolution has not been possible, or you would like to make a formal complaint straight away, your concerns will be logged as a formal complaint and acknowledged within 3 working days. We will make every effort to resolve it quickly and effectively and will agree a timescale with you.

We will appoint someone to investigate your complaint and they, or a member of the Complaints Team, will contact you to agree with you the best way to reach a satisfactory outcome.

We will:

- Go through the reasons for your complaint, identifying each aspect of the complaint to make sure we understand your concerns properly. We will normally do this by phone or email, but we are able to meet if that suits you better.
- Agree a complaint resolution 'plan' if necessary, including how we will investigate your complaint and the time it will take. Our aim is to complete most complaints within 25 working days, but some complaints may take longer to resolve.
- Ask what you would like to happen as an outcome of your complaint and tell you if we think this is realistic.
- Ask you how you wish to be kept informed about the progress of your complaint, and make sure we contact you regularly – this can be by phone, letter, email or through a third party such as a friend or family member, advocate or support service.

What will happen if you are still not satisfied?

If you feel your concerns have not been fully resolved, we will consider your reasons and investigate further, if necessary, until we are able to reach a final agreed resolution or determine that no further progress can be made. You will be involved in every step.

## 14. Multi agency complaints

Adult Social Care has a duty to cooperate with a responsible body for the purpose of coordinating the handling of a complaint and ensuring that the complainant receives a coordinated response.

Where a complaint involves more than one organisation, such as the Council and an NHS Trust, there should be full cooperation and coordination to resolve the complaint.

We will:

- Ask for your consent to pass the complaint to the relevant organisation

- Identify and agree who has lead responsibility and who will act as the single point of contact
- Communicate this to you and coordinate the response

There may be times when we decide that a joint response is not the most effective way to respond to your complaint or that the complaint is not for Adult Social Care. In these circumstances, we will make sure you are fully aware of who to contact at the relevant organisation and ask for confirmation that they are investigating your complaint.

## **15. Advocacy and support**

Citizens Advice

You can get independent advice from Citizens Advice Wandsworth. They can also help you draft your complaint.

Phone: 0808 278 7833

Website: [www.cawandsworth.org](http://www.cawandsworth.org)

### **Advocacy**

If you need help to make a complaint or to understand the complaints process, an advocate can support you and help you explain what you want. They help to ensure your views are heard, so that your problems can be sorted out. They can support you in meetings and discuss the decisions that the Council or NHS makes about your complaint. An advocate can be specially trained for the job, or a member of your family, a friend or neighbour, or just someone you feel comfortable with.

If you need an independent advocate, please contact the Complaints Team at [adultscomplaints@wandsworth.gov.uk](mailto:adultscomplaints@wandsworth.gov.uk) or call 020 8891 7973.

### **Other help**

You can also get in touch with your local Councillor or Member of Parliament, who will contact us on your behalf. You can do this in person, by phone, by letter or by email. You can find their contact details on our website at

<https://www.wandsworth.gov.uk/the-council/councillors>

<https://www.wandsworth.gov.uk/the-council/how-the-council-works/elected-representatives/>

## **16. Local Government and Social Care Ombudsman (LGSCO)**

We will send you a full and final response at the end of our investigations into your complaint. If at any stage you are still dissatisfied, you can ask the Local Government

and Social Care Ombudsman to investigate your complaint. The Ombudsman will consider any complaint you have made and give you their views.

The Ombudsman will usually ask you if you have used the Council or provider complaints procedure first and will only investigate complaints that are considered to be about maladministration - that is, inefficient or unfair administration.

You can write to the Ombudsman at:

The Local Government and Social Care Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH

Phone 0300 061 0614

Online form: [www.lgo.org.uk/how-to-complain](http://www.lgo.org.uk/how-to-complain)

Website: [www.lgo.org.uk](http://www.lgo.org.uk)

## **17. Anonymous complaints**

We value all information and feedback about Adult Social Care, and we will deal with anonymous complaints on an individual basis and decide whether further action is required.

We will act depending upon the issues brought to our attention and the amount of information provided but we are not able to respond to anonymous complaints. For example, if an anonymous complaint is made by phone, we will not ask for contact details.

## **18. Appeals about Care Act assessments and eligibility/ personal budgets/ support plans and financial assessments**

### **Care assessments and eligibility/ personal budgets/ support plans**

The Care Act 2014 requires local authorities to ensure that their processes are always transparent and clear to the person concerned. This includes managing people's expectations of the timescales and possible outcomes of the process.

If you are unhappy with your assessment, determination of eligibility, personal budget or support plan, you may be encouraged to make an appeal, if a resolution cannot be found after an initial discussion. You will be asked to outline the issues you are

appealing and why you believe that the process has been unfair and the outcome inaccurate.

Appeals will be sent to the Head of Service who will review the matter and make a decision within 15 days of the appeal being lodged.

The outcome will be communicated to you in writing with the reasons for the decision clearly explained. If you are still not satisfied with the outcome, you can make a formal complaint.

### **Financial Assessments**

If you are unhappy with the outcome of your financial assessment because you feel that the process has been unfair and the outcome inaccurate, you can ask to have the assessment reviewed.

Appeals will be sent to the Financial Team Leaders who will review the assessment and make a decision within 15 days of the appeal being lodged.

The outcome will be communicated to you in writing with the reasons for the decision clearly explained. If you are still not satisfied with the outcome, you can make a formal complaint.

### **Exceptions to using the appeals process**

If you are unhappy with the outcome of an assessment/ support plan/ direct payment but also wish to raise other issues, for example, the length of time the process has taken, or how a member of staff dealt with you, then we may decide to use the Complaints process straight away to consider all the issues, rather than use the appeals process first.

The Complaints Manager will always advise on the most effective way to resolve your concerns.

## **19. Data Protection and Freedom of Information**

We have separate processes for dealing with matters that relate to the Data Protection Act 2018 (DPA) and Freedom of Information Act 2000.

The Council has its own Data Protection Policy which can be found on this link.  
<https://www.wandsworth.gov.uk/the-council/open-data-and-transparency/data-protection-policy/>

This policy helps us to maintain the trust of residents in dealing with their data. It reduces the risk of any information security breach taking place, and the distress this may cause if it happens.

If your complaint contains any of the following, the Complaints Team will direct you to the correct officers within the Information Governance Service or Freedom of Information Team:

A data breach: this will be directed to the Data Protection Officer at [dpo@richmondandwandsworth.gov.uk](mailto:dpo@richmondandwandsworth.gov.uk)

A request to access your records: this will be directed to the Subject Access Request Manager at [SARR@richmondandwandsworth.gov.uk](mailto:SARR@richmondandwandsworth.gov.uk)

A request to rectify incorrect personal data (Right to Rectification): this will be directed to the Information Governance Manager at [dop@richmondandwandsworth.gov.uk](mailto:dop@richmondandwandsworth.gov.uk)

You can make a Freedom of Information Request through a form on our website at

<https://www.wandsworth.gov.uk/the-council/open-data-and-transparency/accessing-information/freedom-of-information/> or via email to [foi@wandsworth.gov.uk](mailto:foi@wandsworth.gov.uk)

## **20. Learning from complaints and quality assurance**

Learning from the experience of people using services can identify where services, policies and procedures can be improved, keep senior management informed of issues that are important to residents, improve communication and strengthen relationships.

The Complaints Manager holds quarterly meetings with the Adult Social Care Professional Standards Team led by the Principal Social Worker. These meetings are an opportunity to triangulate learning from complaints with process improvements being led in services by the Professional Standards Team.

Learning from complaints that has been embedded in services is included in the Annual Statutory Complaints report.

## **21. Monitoring and Recording**

The Complaints Team keep an electronic case management system and logging sheet of all complaints and associated information such as:

- Resident details (and the details of any representatives if the complaint was made on behalf of the resident) )
- Complaint details (who, what and which service is being complained about)
- Documentation and correspondence related to the complaint

A copy of the complaint response is also put on the electronic social care records system (Mosaic). However, as some complaints contain sensitive information, the investigating manager has discretion to not put the complaint onto the resident's record.

Complaint files relate to personal information and can be sought as part of a Subject Access Request under the Data Protection Act 1998.

The Complaints Manager will monitor complaints on an ongoing basis to ensure that records are kept for each complaint received including the type of complaint, outcome and whether the timescale was met.

An Annual Complaints Report will be presented to senior managers and Members through the relevant committee and will be published on the Council's website.

The Complaints Manager will also provide quarterly complaints performance reports to senior managers and a bi-weekly complaints tracker report.

The privacy notice which explains how the Complaints Team use your data can be found on the website at:

<https://www.wandsworth.gov.uk/the-council/open-data-and-transparency/privacy/departamental-privacy-notice/corporate-statutory-and-ombudsman-complaints-privacy-notice/>

## **22. Unreasonable Complainant Behaviour**

The Council is committed to dealing with all customers fairly and impartially and to delivering high quality services. This includes to those who wish to complain, offer comments, or provide us with feedback.

Normally, people who wish to complain are allowed full access to the Council and all relevant services. However, there are a small number of complainants who, because of their behaviour and the way they approach Officers in the Council in relation to their complaint, may need to have their contact restricted. They may behave unacceptably or be unreasonably persistent in their contact. This can impede investigating their complaint(s) and can have significant resource implications. These actions can occur

either while the complaint is being investigated, or once the Council has finished the complaint investigation.

The Council has an Unreasonable Complainant Behaviour Policy which can be found on our complaints webpage <https://www.wandsworth.gov.uk/the-council/have-your-say/make-a-complaint/>

The policy covers ‘unreasonable complaint behaviour’ which may include one or more isolated incidents, as well as ‘unreasonably persistent behaviour’, which is usually a build-up of incidents or behaviour over a longer period.

A panel of senior managers meet regularly to review people who have had restrictions placed on their contact to make sure that the decisions are made fairly and that restrictions are removed if the person has modified their behaviour.

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**If this document is in printed format, it may not be the current version.**

**This document should be reviewed annually by the document owner and a note made to this effect in the table below.**

#### **Change Control Table**

<b>Version</b>	<b>Description</b>	<b>Who By</b>	<b>Release Date</b>
1	Original Policy	<b>Statutory and Corporate Complaints Manager</b>	<b>February 2024</b>