

Annex 1



Adult Social Care

Concerns, Compliments and Complaints

Annual Report

2009 – 2010

## **1. Introduction**

This is the Complaints Manager's annual report for adult social care. It is a statutory requirement to produce an annual report about the complaints activity within adult social care and this is a public document.

The purpose of the report is to provide an overview of this work and to summarise the issues that have arisen from 1<sup>st</sup> April 2009 through to 31<sup>st</sup> March 2010.

This report will firstly go to the Executive Member for Adult Social Care, Health & Housing for approval and subsequently onto Bracknell Forest Adult Social Care Overview & Scrutiny Panel on 8<sup>th</sup> June 2010.

## **2. Context**

### **2.1 Legislation**

The legislation requires local authorities to appoint a Complaints Manager with the remit of:

- Managing, developing and administering the complaints procedure
- Providing assistance and advice to those who wish to complain
- Overseeing the investigation of complaints that cannot be managed at source
- Supporting and training staff
- Monitoring and reporting on complaints activity

#### **2.1.1 New Procedure**

New regulations and guidance on the joint social care and health complaints procedure were published in February 2009 and came into force on 1<sup>st</sup> April 2009. It is called 'The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

This procedure is based on the Department of Health's guidance, 'Listening, Responding and Improving' which supports the statutory requirements for the handling and consideration of complaints. Its intention is to allow us more flexibility to respond to complaints and to encourage a culture that uses people's experiences of care to improve the service we provide. To achieve this we aim to look at people's needs rather than the process of dealing with the complaint.

At present, complaints from self-funded users of independent services have no redress for anything that has gone wrong, except by using their provider's own complaints procedure.

With effect from October 2010 adults who fund their own social care will have access to an independent complaints review service provided by the Local Government Ombudsman. This information will be distributed to all staff who have direct contact in dealing with members of the public.

### **2.2 Who May Complain?**

Section 5 of the Regulation (2009) requires local authorities to consider complaints made by someone who:

- Is receiving or had received services from the authority.
- Is affected, or likely to be affected, by the action, omission or decision of the authority.

- A complaint may be made by a representative, acting on behalf of a person who, has died, or is unable to make the complaint themselves because of:
  - (i) physical incapacity, or
  - (ii) lack of capacity within the meaning of the Mental Capacity Act 2005, or
  - (iii) has requested that a representative act on their behalf (proof must be provided in this instance)

A complaint by a representative will not be considered if the authority is satisfied that the representative is not acting in the best interests of the person on whose behalf the complaint is being made. If this occurs, the authority will inform the representative of the reason for this decision in writing.

If it is considered that the complaint is outside of these regulations, the complainant will be notified in writing of this, outlining how this decision was reached.

### **2.3 The Statutory Complaints Procedure in Bracknell Forest**

Responsibility for statutory complaints rests with the Director of Adult Social Care and Health.

In order to provide independence from the line management of cases and the allocation of resources, this post is managed by the Performance Manager within the Performance & Resources Branch.

### **2.4 The Statutory Procedure**

A single approach to dealing with complaints for both Adult Social Care and the National Health Service was introduced on 1<sup>st</sup> April 2009. The single approach will give organisations greater flexibility to respond and encourage a culture that seeks and then uses people's experiences of care to improve quality. The three stage process has ended and a single level process is now in use.

In managing the procedure the Complaints Manager is required to ensure that:

- The complaint investigation considers the matters raised comprehensively and objectively
- The reply of the local authority addresses all matters arising in the complaint and the investigation is pro-active in resolving the complaint wherever possible.

In complex matters, it is important to be able to demonstrate that a fair process has been followed. The use of external Investigators assists in the resolution of these complaints. However, complaints are not automatically referred to an external Investigator, as Bracknell Forest has its own experienced managers who may be in a position to undertake an investigation.

The complaints procedure aims to be as accessible as possible. All information regarding the new policy and procedure is available on the Bracknell Forest public website.

## 2.5 The Local Authority Procedure

Complaints not covered by the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 may be dealt with under the local authority procedures.

## 2.6 Timescales for the Resolution of Complaints

Staff will always try to resolve problems or concerns before they escalate into complaints and this ensures that, wherever possible, complaints are kept to a minimum.

Since the introduction of the new regulations the only mandatory timescale is that the complainant receives an acknowledgement within 3 working days. The new legislation allows for a more flexible approach, but we aim for a formal investigation to be completed in 3 months and the overall life of a complaint to be within 6 months. If these timescales are not met, a new plan of action must be agreed/negotiated with the complainant.

There is a time limit of 12 months from when the matter being complained about occurred, to when a complaint may be made. After this time, a complaint will not normally be considered.

However, the 12 month time limit does not apply where the local authority is satisfied that the complainant had good reasons for not making the complaint within that time and where it is still possible to investigate the complaint effectively and fairly.

## 2.7 Timescale agreed with complainant for completion of complaints

New guidelines for 2009/10 incorporate working with complainants at the outset to agree on a timescale for responding to the complaint. Our aim is always to resolve complaints within the individual timescale that has been negotiated with the complainant. In some instances, particularly where unforeseen circumstances arise, it is necessary to re-negotiate this timescale. Out of the 15 cases investigated, the agreed timescale was exceeded in seven instances. As this is the first year timescales for responding have been negotiated in this way, it is anticipated that there may be learning from this in our approach for 2010/11.

Number of Cases	Was Deadline Met - Not Met?
7	- 4 Cases were very complex and required in-depth investigations and therefore did not meet the initial negotiated deadlines  - 3 Deadlines were not met as this was during the period of recruitment for the new Complaints Manager
5	Were resolved within negotiated timescale
3	Cases still within investigation stage

### 3. Overview of the Work

#### 3.1 Number of Complaint Investigations

There are approximately 4,000 people in receipt of support through adult social care during this period.

A total of 15 complaints have been received using the Statutory Complaints procedure for the period of 2009-10 in comparison with:

*A total of 18 complaints received for the period of 2008-09*

*A total of 22 complaints received for the period of 2007-08*

This shows a slight drop in complaints over the past 2 years, however as the cohort is relatively small this may not be significant.

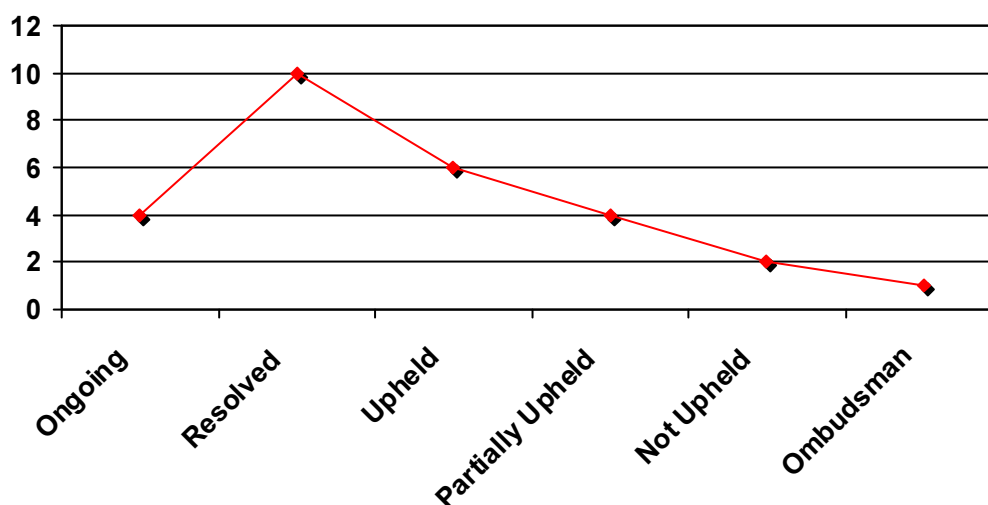
1 Complaint was referred to the Local Government Ombudsman

2 Complaints have used the Protocol – Joint working on complaints

The complaints dealt with under the complaints procedure do not, for example always include complaints about the care provided by independent agencies. This is due to those agencies having their own complaints procedure. Also people who are in receipt of direct payments have limited access to the local authority complaints procedure. This is because those in receipt of direct payments are effectively employing their carers and this is not covered by the statutory complaints system. However, advice around these issues can be obtained via the Direct Payments Team.

Clients who self fund their services also do not have access to the statutory complaints procedure - although with effect from October 2010 they will be able to direct their concerns onto an independent complaints review service provided by the Local Government Ombudsman.

#### 3.2 Findings from Complaints



As shown in the previous table of the 15 complaints that were investigated, 6 were upheld, some were partially upheld, which sometimes happens within the more complex cases when there are many factors involved and areas of concerns that need investigating.

These investigations provide an insight into services and indicate to us where there are opportunities for us to improve and to use these experiences to make appropriate changes where required as highlighted in 6.2.

### 3.3 Complaints by Areas of Service Provision

Bracknell Forest receives in the region of 1,500 contacts for new clients per annum. Complaints broken down into Service Provision are shown as follows:

3 - were in respect of financial matters / the finance team
7 – were in respect of services provided by the Community Response & Reablement Team
2 - were in respect of services received from Learning Disability Team
2 – were in respect of Occupational Therapy matters
1 – were in respect of services received via Brokerage Team

#### At Local Government Ombudsman Stage:

1 - an ongoing investigation
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### 3.4 Nature of Complaints Received

Access to Services	2
Communication with Service User	4
Standard of Service	9

### 3.5 Cost of Complaint Investigations for 2009-10

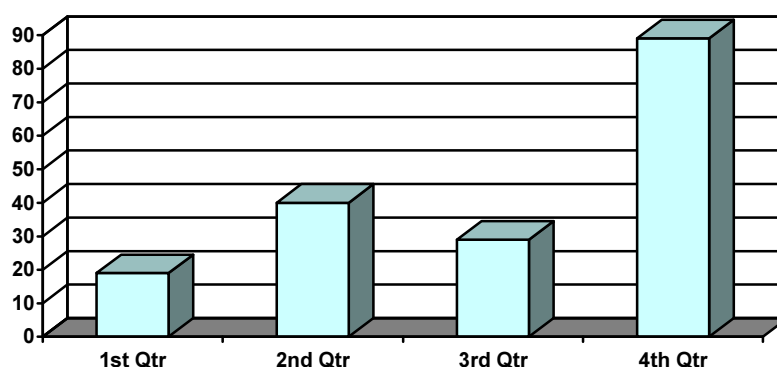
The cost of independent investigations for this period was £3,986.94p  
 There were also some extra costs incurred for publicity materials, such as leaflets, totalling £404.00, giving an overall total cost of £4,390.94.

### 3.6 Reporting to Senior Managers in Adult Social Care

The Complaints Manager meets with Chief Officers on a monthly basis.  
 The purpose of the meeting is to learn from the outcomes of complaints and to use that to improve on service delivery.

## 4. Representations in Adults Social Care 2009-10

### Compliments



<p><b>Compliments</b> given to the Complaints Manager</p> <p>Examples of comments were:            'Would like to thank the department for the help to pack up the kitchen to make way for a new one to be fitted'.            'Grateful for the support received, especially through the long winter months when the meals on wheels were always there'.            'For the help and support that is provided to my daughter who has Learning Difficulties'.            'The equipment and expertise has been invaluable since my hip replacement'.            'Thank you for the extremely efficient processing of the Blue Badge application'.</p>	<p>177 in total</p>
<p><b>MP enquiries.</b></p>	<p>15 in total</p>

<p><b>Concerns</b> The Complaints Manager is often contacted about matters that are problems and worries rather than complaints, the majority of these are dealt with at service delivery level. These are generally recorded as a 'concern'.</p>	<p>14 in total</p>
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## 5. Development of Policies and Procedures

Since the introduction of the new legislation (April 2009), Bracknell Forest Council has issued a new complaints policy implementing new procedures. These are in line with 'A Guide to Better Customer Care' published by the Department of Health.

Dealing with a complaint is usually a straightforward process. However, in a small number of cases, people pursue their cases in ways that create excessive demands on staff and resources. This can happen while the complaint is being investigated and/or after the authority has concluded its investigations. In line with this, we have issued a Policy entitled 'Unreasonably Persistent Complainants and Unreasonable Complainant Behaviour Policy'

### 5.1 Development of Complaint Management Expertise

The Complaints Manager has attended several team meetings to provide an update on complaints management and the new procedures introduced.

The South Regional Complaints Manager's Group also aims to meet quarterly. It is well attended and provides a network for support and information sharing. The network aims to raise standards for Complaints Management across the region to promote consistency of practice and to provide a source of mutual support.

For the period 2009-10 the key work of the group has been to consider the introduction of the new legislation for Adult Social Care and to discuss/share alternative techniques in resolving formal complaints.

## 6. Commentary on Complaints received in 2009-10

Cases unresolved – these are in the final stages and response letters have gone to the complainants. We are awaiting their decision as to whether the findings in the conclusion are acceptable. For one in particular a face to face meeting may be required.

### 6.1 Comments on the Local Government Ombudsman Complaint

One complaint has been brought to the attention of the Ombudsman. At the time of writing this report, it continues to be an ongoing investigation.



## **Learning from Complaints**

Six areas of improvement were highlighted during this period as a result of complaints received and investigated:

- Criteria for the admission into Bridgewell have been strengthened necessitating changes to protocols
- The distribution of invoices regarding charges for residential care is being reviewed.
- Relevant staff in the Financial Assessment team to receive formal training on customer care.
- It was identified that some continuity of care management is required in relation to supporting people under the MH Act
- Some channels of communication need to be clearer between service users and service providers.
- Ongoing, close supervision to ensure individuals are supported and arrangements are made that is most conducive to their needs

## **7. Issues about the Complaint Procedure from the Complaints received**

### **7.1 The Parameters of the Complaints Process**

In accordance with the guidance the Complaints Manager has a responsibility to put in place a process which is transparent and set apart from operational management of the care service.

It is also their responsibility to work with the Chief Officer's to decide whether any carer who may be raising a complaint is doing so in the interests of the person receiving a service. If there are no mental health issues, and the person is able to make their own decisions, we must have their permission to proceed with the investigation.

The new legislation promotes a more flexible approach, for example, negotiating timescales in relation to ongoing investigations.

### **7.2 Good Practice in Complaints Management**

Speedy responses have helped to prevent escalation of issues which may have no merit, or to be classed as a complaint. As the legislation states if a matter is dealt with within 24 hours to the satisfaction of the complainant, then it is not required to be logged as a complaint.

The Local Government Ombudsman has produced 3 very helpful publications:

- Principles of Good Complaint Handling
- Principles of Good Administration
- Principles for Remedy

The Ombudsman's principles for good complaint handling are:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right
- Seeking continuous improvement

It may be useful to review the way we collate complaints data, for example:

- How can we more closely define the difference between a complaint and a concern?
- When does a concern become a complaint?
- If a complaint has been dealt with by an Operations Manager, solely about the service, how are these being brought to the attention of the Complaints Manager – and what are the conditions that govern them to be classified as a complaint?

Clearly this warrants further investigation – the findings of which will be highlighted in the next annual report.

## **8. Areas for Future Development**

It is crucial that the Complaints Manager is kept abreast of current investigations and will therefore continue to work with the relevant teams to achieve this.

Work is ongoing to ensure that operational teams have a good understanding of the current complaints policy and the procedures that Bracknell Forest Council has put in place.

A major part of the Complaint Manager's role is to be sure that those policies and procedures are being adhered to and that the processes remain transparent and robust.

## **9. Conclusion**

Over the period of this review, the complaints function for adult social care has met the requirements of the relevant guidance and regulations. Overall management of complaints is managed well and undertaken with sensitivity. Bracknell Forest Council does not receive a high number of complaints, but those that it does receive are becoming increasingly complex.

The Council learns from complaints made and there is evidence that changes to processes have been made where appropriate.

The next report will cover the period from April 1<sup>st</sup> 2010 to March 31<sup>st</sup> 2011.

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