

COMPLIMENTS, COMMENTS, CONCERNS and COMPLAINTS



P12 - PROCEDURE

v2.3

2017-02-20

WARNING! PLEASE NOTE IF THE REVIEW DATE SHOWN BELOW HAS PASSED THIS PROCEDURE MAY NO LONGER BE CURRENT AND YOU SHOULD CHECK THE [E-LIBRARY](#) FOR THE MOST UP TO DATE VERSION

THIS PROCEDURE APPLIES IN THE FOLLOWING DIRECTORATE(S)/ UNIT(S)
(please delete as appropriate)

- Adult Social Care, Including Cumbria Care

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1. POLICY STATEMENT

The Health Care & Community Services Directorate recognise that compliments, comments, concerns and complaints provide valuable feedback about peoples experiences which can be used to inform, develop, and shape our services.

When people have complaints we will listen to them, and, wherever possible, will negotiate and agree a course of action to resolve the complaint. We will deal with complaints in a fair and transparent way, treating those who make them with courtesy and respect. We encourage comments and compliments as well as complaints, as part of our commitment to a process of continuous learning and improvement.

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2. PROCEDURE - COMPLAINTS

All local authorities with social services responsibilities as well as health trusts, GP's, dentists and ophthalmologists must by law make **arrangements** for dealing with complaints. The arrangements must comply with the statutory requirements as detailed in the *Local Authority Social Services and National Health Complaints (England) Regulations 2009*. The information below combined with the process map on page 16 sets out those arrangements and explains how complaints will be treated.

The Directorate will provide publicity and information relating to its process for dealing with complaints. Staff must be familiar with the arrangements so they may effectively advise and respond to people who wish to make complaints, raise concerns or compliment staff.

Who may complain:

- A complaint may be made by a person who receives or has received services from the directorate or any person affected or likely to be affected by our actions, omissions, or decisions. A representative of that person may also make a complaint.
- When a complaint is made by a representative whether an advocate, solicitor, friend, relative or neighbour, we will ask for written permission from the person who is the subject of the complaint. We may refuse complaints made without permission from the person who is the subject of a complaint. If we decide to do this we will write to the complainant explaining why the complaint has been refused.
- If the person who is acting as a representative does not have permission, either because the person who is the subject of the complaint lacks Mental Capacity (within the meaning of the Mental Capacity Act 2005) or is unable to complain because of physical incapacity, we may refuse to deal with the complaint if we consider the complaint is not in the best interest of the service user. If we decide to do this we will write to the complainant explaining why the complaint has been refused.

What can be complained about:

- The exercise by the local authority of its social services functions
- Any functions provided under a section 75 agreement (National Health Service Act 2006) with the NHS.

Time limit for making complaints:

There is a time limit for making complaints under these complaints arrangements. We will not normally consider complaints made more than 12 months from the date on which a matter occurred, or the matter came to the notice of the complainant.

Where complaints are judged as being out of time, the Complaints Manager will write to the complainant explaining the reasons for the decision. The complainant will be advised of their right to approach the Local Government Ombudsman.

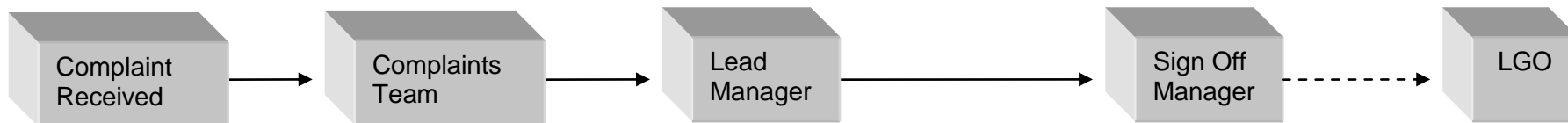
There remains discretion to accept complaints more than one year old if there were good reasons for the complaint not being made within the 12 month time limit and if would still be possible to deal with the complaint fairly and effectively.

Complaint timescales:

All complaints must be passed either **on the day of receipt** or **within 24 hours** to the complaints team, preferably by e-mail. Every complaint should be **acknowledged** not later than **three working days** after the date the complaint was received. The manager who has been asked to resolve the complaint (known as the Lead Manager) should **contact** the complainant within **five working days** to arrange to meet with them to talk through the complaint in detail. At this meeting, or during the initial telephone discussion, the responding officer will agree how the complaint will be dealt with and resolved, and will **negotiate an agreed timescale for completion** with the complainant. The agreement will be recorded on a [complaints resolution plan](#). The Lead Manager should negotiate a **realistic timescale** for completion but this should always be the shortest time possible. More time can be negotiated at a later date, with the agreement of the complainant, if there is an unanticipated delay. The complaints resolution plan should be updated to reflect the revised timescale and the complaints team informed. All complaints, regardless of how complex, should be concluded – at the latest - within **six months** of receipt.

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COMPLAINTS PROCESS MAP AND CHECKLIST



Wherever complaint received and however made, send details to complaints team the same day

Identify and route and safeguarding issues to safeguarding process

Risk assess complaint

Acknowledge complaint

Identify and pass complaint to Lead Manager (according to Scheme of Delegation) with Copy to Sign Off Manager

Log complaint on database

Initial Contact

Speak to complainant within 5 working days

Offer opportunity to meet (if practicable) to discuss complaint

Explain the process (including Sign Off)

Resolution Discussion/Meeting

Mutually negotiate and agree a resolution plan to include relevant timescales

Complete the Complaints Resolution Plan Template

Get Complainant to sign Resolution Plan and give them a copy

Follow-Up Actions

Send a copy of the Resolution Plan to the Complaints Team/Sign Off Manager

Complete agreed actions

Communicate regularly with Complainant and update Complaints Team

Inform Complainant of outcome

Complete Report and send to Sign Off Manager along with a copy of the original complaint and resolution plan **or**

(Cumbria Care only) Draft sign off letter and meet with Sign Off Manager taking the original complaint, resolution plan, report and draft sign off letter

Read and consider the original complaint, resolution plan and report. Discuss any issues with Lead Manager

Has complaint been fully and fairly considered?

Has everything possible been done which might resolve complaint?

Pass back to Lead Manager for further action (if necessary)

Have upheld complaints been remedied?

Advise Complainant of right to refer complaint to the LGO

Write and send sign off letter

Copy letter to Complaints Team

Consider learning From complaint and complete Learning Log & send to Complaints Team

Local Authority responds to any request by the LGO

APPENDIX 1 GUIDANCE

1. What if I (or my team) are the subject of a complaint?

- Try to see the complaint in perspective and compare it to the overall number of cases you deal with – complaints represent, on average, 0.5% of all cases dealt with in Adult Social Care;
- Try to view the complaint as about the directorate, its policies and processes rather than about you personally. Staff members are generally named in complaints because they happen to be the person who is in touch with the complainant. The complaint may be about something they (and you) may have no control over e.g: policies, legislation or the allocation of resources.
- Try to see the complaint from the complainants' perspective. It may help you to understand why the person has made a complaint. It does not mean necessarily that you will agree with the complainant. Recognise that complaints can be difficult, stressful and time consuming for all parties including you, the Lead Manager and the complainant.
- Remember that you are entitled to support during the complaints process and can access support from your line manager and via the PPC Support Help Line. If you are anxious or unclear about the process please speak to your line manager or contact the complaints team (01228 221234).
- We recognise that complaints can be difficult and stressful for staff and managers. There will be occasions where in spite of individual workers doing the best they can, the directorate's performance overall may be criticised. This is particularly the case in complaints related to resources.
- You have the right to be listened to.
- You should be kept informed throughout the process of a complaint and will be notified of the outcome by your line manager or via the complaints section. If at any time you need more information regarding a complaint please ask your line manager or contact the complaints team. The complaints process is intended to be fair and transparent for staff as well as for complainants.
- You will most usually find out about the complaint via your line manager or the person who has been nominated to act as Lead Manager.
- If you are involved in a case or matter that is the subject of a complaint and you have relevant information, not on the case file, relating to that complaint, the Lead Manager who has been asked to resolve the complaint will usually discuss the case with you.
- Staff are entitled to know why a manager has dealt with or responded to a complaint in a particular way and may want to ask the manager to explain a decision or action. Post-complaint briefings may help individuals or teams to understand the thinking of managers and this may be helpful in shaping future practice. This is an important part of the lesson learning process.
- You are entitled to feedback any comments about the complaints process, and can do so by contacting the Complaints Team or via your line manager.
- The complaints procedure is not for staff to use in place of the grievance procedures or for management to use in place of disciplinary or capability procedures or any other management process. If during the course of the investigation of a complaint, any potential disciplinary matter emerges, the Investigating Officer will immediately refer the matter to a Senior Manager. Disciplinary and grievance issues are outside the remit of Investigating Officers and will not be dealt with via the Compliments, Comments,

Concerns & Complaints Procedure. Complaints are NOT recorded in your personal file.

- **Re: External Independent Investigations**
- If you are interviewed as part of any investigation you will receive a copy of the clarified complaint and desired outcomes before you meet with the Investigating Officer. This will set out clearly what the complainant is unhappy about and what he /she would like to happen as a result of the complaint.
- You are welcome to bring any colleague not involved in the complaint or Trade Union Representative along with you to the interview for support. However, remember that these are fact-finding investigations only.
- If you are interviewed as part of any external independent investigation, following the interview you will receive a written (although not verbatim) account of the discussions for you to check, amend and agree as accurate.
- You will usually receive a copy of the investigation report in draft form giving you the opportunity again to comment on the accuracy of the report. You will usually be entitled to see a copy of the Investigating Officer's final report. You should ask the Lead Manager for a copy.

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2. What do I do if somebody wants to make a complaint?

- People who receive our services need to have **easy access** to the Compliments, Comments, Concerns & Complaints Procedure so that they call tell us about their experiences, both good and bad. Always tell people that they have the right to make a complaint and, help them to do so, if necessary
- When people raise concerns or make complaints, our objective should be to **resolve their problem as efficiently and effectively** as we can. If you can resolve somebody's concern or complaint by taking action then please do so
- Bear in mind that people making complaints can be angry and frustrated. Take plenty of **time to listen** to their complaint, take it seriously and **be sensitive** to the complainant's point of view. Avoid defensiveness; the way a person is initially treated when they first raise their complaint is very important. Accept that the Department may be at fault. Full and accessible explanations and sincere and well-timed apologies can often go a long way to resolving complaints.
- It is your **legal responsibility to capture the detail** of any concerns and complaints people tell you about so that the council can respond appropriately and try to sort things out to the complainant's satisfaction. Use the [e-form](#) in the e-library to **record** the details of compliments, comments, concerns & complaints made verbally or help the complainant fill in the form from the complaints leaflet. You must do this **immediately** and send to the Complaints Team **the same day**.
- People wanting to give feedback to the directorate can also contact the **Complaints Team** personally by telephone. Alternatively they can send a letter or e-mail the directorate.
- Complaints made **verbally, or via e-mail** are treated in the **same** way as complaints made **in writing**. The fact a complaint is not written down, does not make it less serious.
- Complaints and concerns made in writing should be **scanned** and **e-mailed** to the Complaints Team on the day of receipt.
- Compliments, Comments, Concerns & Complaints made **via e-mail**

should be forwarded to the complaints team. In the case of concerns and complaints, this should be done on the day of receipt.

- Complaints which are **made verbally and resolved** either the same day or by the end of the following day **to the complainant's satisfaction** do not have to be recorded by the Complaints Team. E.g.: A complaint about information not being sent as promised might be immediately resolved to the complainant's satisfaction with an apology and immediate sending of the information OR A complaint that there has been a delay in arranging a meeting might be resolved by an apology, explanation of the delay and a date being arranged for the meeting, which is satisfactory to the complainant. The Complaints Team must be notified of **all other** complaints on **day of receipt**.
- The approach in each case will be a **person centred** and **proportional** one. When a complaint is made, a **Lead Manager** will establish, by talking to the person who has complained, what the complaint is about and what outcomes the complainant is looking to achieve. A [complaints resolution plan](#) with clear, realistic objectives and timescales will be agreed with the complainant. The complainant and Lead Manager will also agree how the complaint is to be dealt with.
- Always give or send a copy of the [Compliments, Comments, Concerns & Complaints Leaflet](#). The leaflet is available from <http://www.cumbria.gov.uk/council-democracy/accesstoinformation/internalreviewscomplaints.asp>. Information on complaints can, on request, be provided in Braille, on audiotape or CD and can be translated into other community languages.
- **DO NOT** pass the complainant around the Directorate from person to person.
- Do everything possible to ensure the process is accessible to all service users. Always consider signposting to an **advocacy service**, particularly for those who may be reluctant to complain or who might find doing so difficult without support.

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2.1. Receiving Complaints

All staff must be aware of **what to do** if they receive a complaint either in writing, electronically or verbally (whether in person or via the telephone). A complaint can be made to any member of staff, regardless of what the complaint is about or whether it involves their team or even their part of the directorate. Any member of staff can record the details of a complaint made verbally. See section 3 of this document for further information. All complaints whether made verbally, in writing or sent via e-mail must be passed to the Complaints Team with 24 hours.

Please note, if the complaint is made **verbally**, and can be resolved locally the same day, or by the end of the following day, to complainant's satisfaction, then details need not be sent to the Complaints Team. The intention is to avoid unnecessary bureaucracy in dealing with complaints which are immediately resolved. Staff and managers should apply discretion to identify those complaints/ types of complaints that can be resolved immediately.

Staff should make sure line managers are aware of complaints being resolved locally in this way so that significant issues and opportunities for learning are not missed.

2.2 Assessing Risk

The Complaints Team will carry out an initial assessment of risk in relation to each new complaint. This will be based on the limited information available to the team in relation to the complaint. The outcome of the risk assessment should help:

- Identify any safeguarding issues which might require further investigation under safeguarding procedures
- Decide who is the most appropriate manager to deal with the complaint according to the [Scheme of Delegation](#). This person will be known as the Lead Manager
- Identify the most serious cases so that senior managers are appropriately briefed
- Help Lead Managers identify proportionate action / resolution in relation to each complaint.

A copy of the risk assessment will be sent to the Lead Manager but not to the complainant. While there is nothing to prevent Lead Managers from sharing the risk assessment, we need to be sensitive to the fact that identifying a complaint as low risk may appear to complainants to be trivialising or diminishing the importance of their complaint.

2.3. Acknowledging Complaints

The complaints team should always do this, unless there is prior agreement with the Complaints Manager. That way we can give consistent and accurate information to complainants about what will happen next and who will be doing it. New complaints must therefore be passed to the complaints team on the same day they are received, by e-mail (or, exceptionally, if this is not possible, by first class post). The law says that complaints must be acknowledged either verbally or in writing by the end of the third working day following receipt of the complaint.

When the complaints team acknowledge complaints we will:

- Say **who** will be dealing with the complaint and **how soon** the person complaining will hear from them
- Offer to **speak to** or meet with the complainant to discuss the complaints process
- Provide information about **advocacy**
- Ask complainants to start to consider **what** outcome they are seeking from their complaint and **how** they would like us to resolve it
- Send a copy of the complaints **leaflet**
- Give information about what **options** there are for resolving complaints
- Advise people about the **Local Government Ombudsman**

When the complaints team acknowledge the complaint we will tell the complainant that the Lead Manager will contact them in person within 5 working days to arrange to meet (if practicable) or discuss the complaint at a time convenient to and at a venue chosen by the complainant.

2.4 Resolving / Investigating Complaints

The following applies to managers who are asked to deal with complaints on behalf of the Directorate. These managers will be known as **Lead Managers**.

If other responsible bodies (e.g.: other local authorities or health colleagues) are involved in the matter complained about then make sure you have agreed with partners who will lead the process and provide the single co-ordinated response. Involve the other responsible bodies in your investigation. We have a duty to cooperate and to provide a single coordinated response. That also applies if a

complaint is about more than one service, individual or team within our own Directorate.

Our aim is to resolve complaints as quickly and effectively as possible. We have one opportunity to resolve the matter before it is passed to the Local Government Ombudsman. It is therefore very important to use this opportunity well.

The Lead Manager's focus should be on:

- Dealing with every complaint **speedily** and **efficiently**
- **Resolving** the complaint to the complainant's satisfaction by **actively listening** to what the complainant is saying and negotiating an agreeable solution to the complaint
- Taking a **person centred** approach
- Responding **positively** to complaints and treating the complainant with courtesy and respect
- Ensure that complaints are dealt with **fairly** and **transparently**
- Keeping the complainant **informed** as to the progress of your investigation or agreed **complaints resolution plan**. Good and **regular communication** via the means preferred by the complainant is vital.
- **Reporting** to a more senior manager who will **sign-off** the complaint

The Lead Manager will be expected to:

- **Meet** with or **offer to meet** every complainant. If a meeting is impractical (for example if the complainant lives out of county), or is not wanted by the complainant, a telephone discussion can be offered or requested as an alternative:
- This meeting should be held as soon as is reasonably practical, and **without delay** caused by lack of availability of the Lead Manager. Complaints must be treated as a priority.
- If the complainant does not take up the offer of a meeting or telephone discussion, the Lead Manager will decide, based on the evidence available, how best to respond to the complaint and the timescale for doing so. The Lead Manager or Complaints Manager will let the complainant know its decision.

At the initial meeting / during the initial discussion:

- Discuss and agree with the complainant the exact nature of their **specific complaints** and the **desired outcomes** they are looking to achieve (Make a **list** of the complaints and the desired outcomes). This will help the complainant focus on what the problem is and what he / she really wants to happen next. Take care to check with the complainant that you have understood correctly.
- Discuss & negotiate **how best to resolve** the complaint. There are a range of intervention options and more than one option can be decided upon. Think of the options as a menu of possible interventions to be selected by the complainant guided by the Lead Manager. Agree how the complainant wishes to be kept informed during the investigation and how often it will happen. Possible intervention options for resolving complaints include:
 - a) Further investigation by Lead Manager followed by a letter or a further meeting (depending on complainant's preference). For example by speaking to staff or checking files or other records
 - b) Provide an explanation of what has happened

- c) Apology - if poor service received or mistakes made
- d) Start, stop or change something
- e) Review or ask another manager to review a decision or hear an appeal
- f) Agree to review a decision or a support plan
- g) Arrange a meeting (with various parties) to discuss and resolve issues
- h) A formal mediation or dispute resolution meeting (chaired by external person).
- i) Offer compensation or re-imburse
- j) A manager from another team or area conducting an investigation or review
- k) Using independent people to chair meetings or adjudicate. The Complaints Manager maintains a pool of independent people who can be commissioned on an ad hoc basis
- l) Obtain a second opinion
- m) Commission an external (independent) investigation via the Complaints Manager (see below)

The above is not an exhaustive list. Lead Managers are required to be flexible and creative. See [Guidance notes for Independent / External](#) people involved in the complaints process for more information about how to make use of independent and impartial people in the complaints process.

- External independent investigations of the type previously offered to all complainants will usually only be offered by the Lead Manager for the highest risk cases where the facts of the case are in dispute, and only after discussion with Complaints Manager, the complainant and/or the senior manager responsible for sign off. Lead Managers should always discuss the practicalities of this option with the Complaints Manager before offering to complainants. It may be possible to use independent people in other roles within the complaints process. All external independent investigations should be carried out in accordance with the people involved in the complaints process.
- At the initial meeting, use the [complaints resolution plan template](#) to structure your discussions. Complete the complaints resolution plan template promptly following the meeting and send a copy to the complaints team and to the complainant. It is important to get the complaints resolution plan right as the complainant can go to the Ombudsman once the options in the plan have been exhausted.
- It may not always be possible to meet the expectations and wishes of all complainants. Talk through the complainant's desired outcomes and be clear with them if their expectations are not realistic (e.g. want social worker sacked). We may get complaints which cannot easily be resolved, for example if they are about decisions or points of law over which we have no discretion. In such cases you should always offer a review which promises a fresh look, and as a minimum, offers clear reasons for the disputed decision, and points the complainant to any documentary evidence which might help them better understand the council's decision.
- It is important to note that some complaints will be resolved at this initial meeting, for example simply by you listening to the complainant, explaining what has happened or by apologising for a failure or omission. Not all complaints will require a complex complaints resolution plan and following the initial meeting the Lead Manager can simply complete the [complaint report template](#) and send the complaint on to the relevant senior manager for **sign off**.

- Following the initial meeting the Lead Manager should carry out the actions in the complaints resolution plan within the agreed timescale. Communicate regularly with the complainant. When you have completed all the actions speak to the complainant to inform them of the outcome and to check whether they are satisfied. If there is more that you can do to resolve the complaint, review the complaints resolution plan with the complainant.
- Once the Lead Manager has completed all agreed actions, and the complainant is satisfied with the outcome OR has completed all actions and is satisfied that there is nothing further that could be done to resolve the complaint, he/she should complete the template report and refer the complaint to the relevant senior manager responsible for sign off.

[Guidance notes](#) are sent to Lead Managers to remind them of the process the each time a new complaint is allocated to them.

2.5 Sign Off / Responding to Complaints

The following applies to senior managers who are asked by the Complaints Team to **sign off** complaints on behalf of the Chief Executive, who is the *Responsible Person* according to the LA Social Services and NHS Complaints (England) Regulations 2009.

If you have been asked to **sign off** a complaint:

Before signing off:

- Make sure that the complaint is resolved OR be certain that everything possible has been done to resolve the complaint. Once a complaint is signed off, we would normally expect the complainant's only recourse to be to the Local Government Ombudsman.
- Make sure that the Lead Manager who dealt with the complaint has completed the **complaints resolution plan & complaints report** templates which will enable you to respond. These will also be sent to the complainant and will provide an audit trail should the complaint go to the LGO. If there is missing information then take this up with the Lead Manager.
- If you think there is more that the council can do to **resolve** the complaint, or if you feel the complaint has been unfairly treated then advise the Lead Manager what further action you would like to be taken to resolve the complaint.
- Consider whether **meeting** with the complainant, with the Lead Manager, if appropriate, to discuss the outcome of the complaint might be productive. There would still need to be a sign-off letter.
- If communication with the complainant between Lead Manager and complainant has been regular and effective, there should be no surprises to the complainant in the sign off letter.
- If you think there are **deficiencies** in the report, the process followed, communication with the complainant or the outcome then discuss them with the Lead Manager. Your input may be useful to them when dealing with complaints in future.
- Make sure that discretion has been exercised and applied fairly.

In your **sign-off letter**:

- Make sure you explain things in a way the complainant will understand
- Make sure any legislation quoted or relied upon is correctly interpreted and clearly referenced and information about where it can be found included in the letter.
- Take account of and acknowledge the complainant's feelings, regardless of whether the complaint is upheld or not. Consider whether we can help or signpost them to other services which might help them deal with things that have gone wrong e.g.: bereavement groups or Citizens Advice Bureaux
- Thank the complainant for making the time and effort to bring the complaint to our attention
- Make sure each of the listed complaints is addressed within your letter. Clearly state which have been / not been upheld
- Consider what remedy is appropriate for any complaints that have been upheld (including financial remedy)
- Enclose a copy of the Lead Manager's report (or the investigating officers report if an external investigation has been commissioned)
- Confirm the local authority is satisfied with the way that the complainant has been addressed and the action taken
- Summarise what conclusions have been reached on the basis of facts
- If there has been learning for the directorate or if you intend to take action in future as a consequence of the complaint explain what, how & when
- Advise the complainant of their right to go to the Local Government Ombudsman. Include a LGO leaflet or contact details for the LGO.

After sign off:

Consider what learning has come out of the complaint for individuals', teams or for the directorate. Fill in the **learning log** template (see Appendix 3) and send it back to the complaints team. This is important, without it, we won't have evidence that we learn from feedback. Feedback to the managers / teams / individuals involved in the complaint. Make clear anything that needs to be done differently in future.

[Guidance notes](#) are sent to Sign-Off managers to remind them of the process the each time a new complaint is allocated to them.

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3. Timescales and extensions

All complaints must be acknowledged within **three working days** of a complaint being received. This is a legal requirement and will be completed by the Complaints Team.

Timescales should be **realistic, achievable** and **agreed** between the complainant and Lead Manager while drawing up the **complaints resolution plan** with the complainant. The timescale agreed will depend on a variety of factors, such as the complexity of the complaint and the need to involve others in the complaints resolution plan.

It is acknowledged that investigations, particularly formal external investigations will take longer to complete. The timescale should be agreed with the complainant before the investigation begins, but it is envisaged that external investigations will not ordinarily take longer than 40 working days to complete.

The reasons for any delay to the agreed timescale must be justifiable and must be communicated by the Lead Manager to the complainant. Details of any revised timescale agreed with the complainant *must* be provided to the complaints team. While it is important that the quality of responses to complaints is not compromised or sacrificed in order to meet timescales, there should never be any unnecessary delay in dealing with complaints.

Managers will be expected to prioritise complaints within their existing workload to ensure the speediest response possible. Dealing with complaints quickly shows that we take complaints seriously, and are interested in resolving them. It demonstrates that we care about the fact that somebody has had a negative experience. Delay can convey an impression of disinterest and disrespect.

No complaints should take longer than a total of **six months** to deal with. This is a legal requirement. This is the maximum time allowable between the date a complaint was made and the council sending a final sign off letter, having concluded attempts to resolve the complaint.

4. Local Government Ombudsman

Citizens have the right to approach the Local Government Ombudsman at any time to make complaints. The Ombudsman will normally pass the complaint back to the local authority if the complainant has not yet given the council an opportunity to resolve the complaint. The Ombudsman may also pass the complaint back to the council if they consider that there is more we can do to resolve the complaint. Complainants must always be reminded of their right to complain to the Local Government Ombudsman.

The Ombudsman will contact the council, via Legal Services, should they decide that matter falls within their jurisdiction and wish to investigate it further. The Local Government Ombudsman may investigate complaints alone or jointly with the Health Service Ombudsman.

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

0300 061 0614
<http://www.lgo.org.uk/forms/ShowForm.asp>

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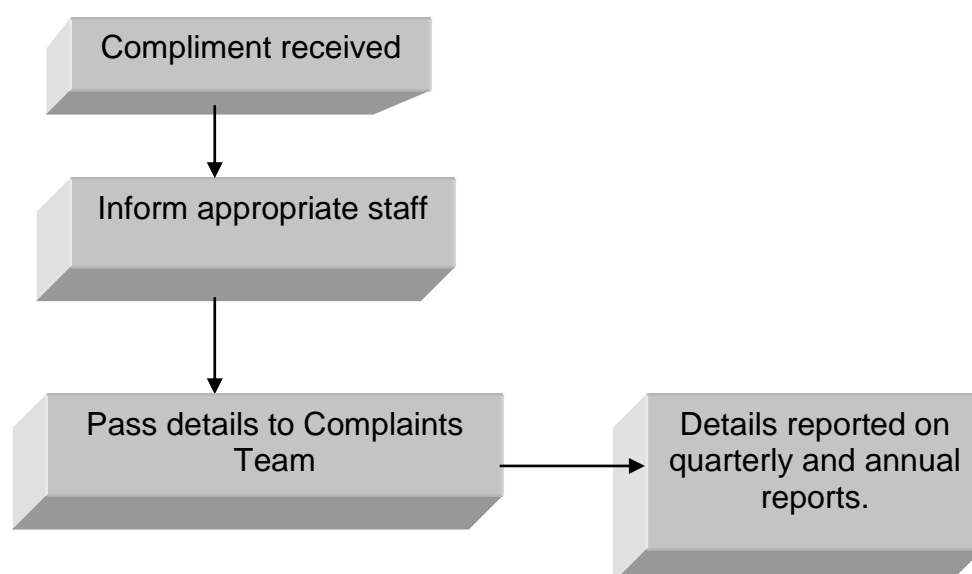
5. What if I receive a compliment?

The Complaints Team log each written compliment received for the Health & Care Services Directorate. It is very important that we do celebrate our successes and share them with colleagues. Compliments are another important way of receiving feedback about our services.

The Complaints Team will log the compliment so that it can be counted for the purposes of quarterly and annual reports.

If you receive a written compliment, please send the details of the sender and member(s) of staff involved, along with the compliment to:

Complaints Team, Cumbria House, 117 Botchergate, Carlisle, CA1 1RD.



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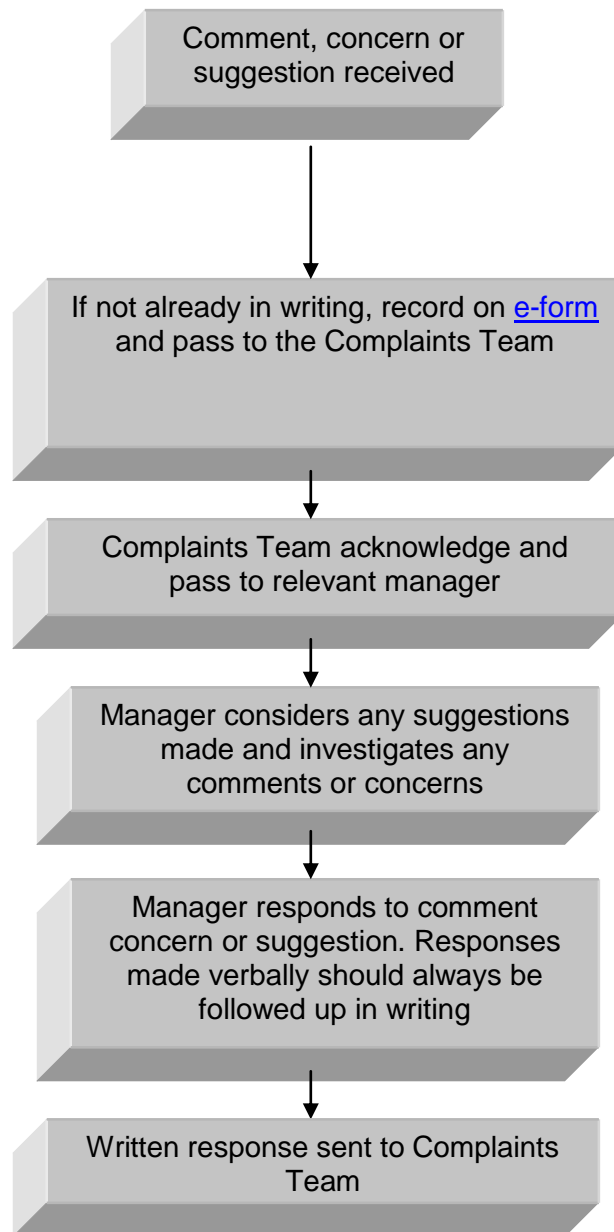
6. What to do with comments & concerns?

It can be **difficult to define** what constitutes a comment, concern or complaint. Definitions can be artificial, and are often meaningless to our service users and citizens. The important thing is that if somebody has or has had a problem, that we try to sort it out and that we use the feedback we receive, both positive and negative to develop and improve our services.

Many people do not wish to complain, but do want to raise important issues or make suggestions as to how we can improve our services. Feedback from our service users is vital so please assist by helping the person complete the Compliments, Comments, Concerns & Complaints Form inside the complaints publicity leaflets or by completing the [e-form](#) Compliments, Comments & Complaints Form (for staff use only) on their behalf. Send completed forms via e-mail to the Complaints Section.

complaints@cumbria.gov.uk

by post to:
Complaints Team
Cumbria House
117 Botchergate
Carlisle
CA1 1RD

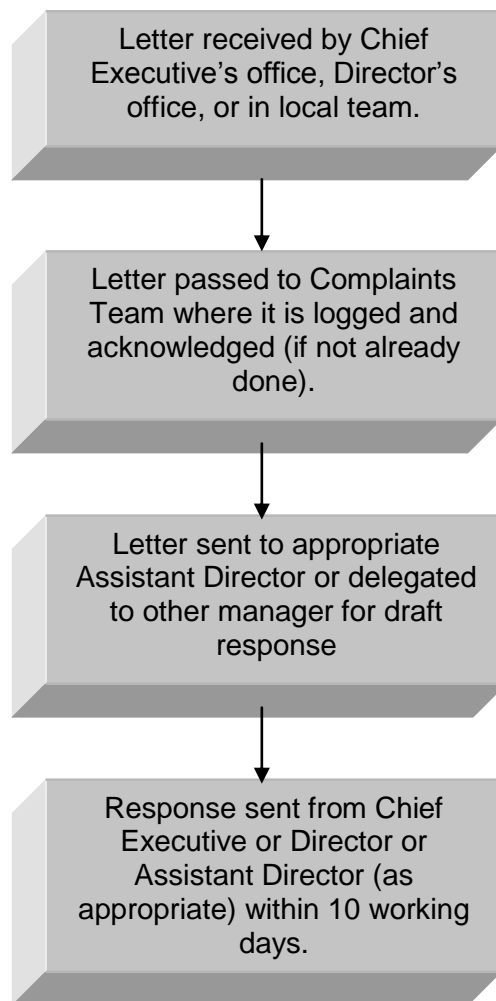


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7. MP and Councillor Enquiries

MPs and Councillors do not normally make formal complaints on behalf of their constituents. More usually, they write to make enquiries or raise concerns, often asking questions or asking the council to comment on a specific case, policy or decision.

Unless they are specifically requesting to make a complaint, we use the procedure below.



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8. Who may complain or raise concerns on behalf of someone else?

A representative may complain, provided the person who is the subject of the complaint has given their permission. The Complaints Team may ask for evidence that permission has been given.

Where the person is unable to make a complaint himself or herself, either because of physical frailty or mental incapacity, the council will need to be satisfied that the representative is acting in the best interests of the person who is the subject of the complaint. In cases where a complainant may not have easy access to contacting the Complaints Team to give their permission for someone to act on their behalf, such as being in hospital at the time, then the Complaints Team will make arrangements for the individual to be contacted to clarify their wishes. If the Complaints Manager or Lead Manager decides that a representative is not acting in the best interests of that person, we may refuse the complaint and will write to the representative to explain the reasons for our decision.

You should assume that the service user has capacity to make decisions (including the decision to complain) in accordance with the Mental Capacity Act, unless there is strong evidence to the contrary.

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9. Advocacy

- We need to consider what type of support, help and encouragement we can offer to service users to make use of the complaints system and to pursue their concerns. This is particularly important in relation to complainants whose first language is not English and those with communication difficulties. People who are vulnerable or who find it difficult to make their views heard may need advice and confidential support to understand the process and / or the outcome. Advocacy support should be arranged as early as possible and can be very useful in facilitating a resolution. Early advocacy involvement can help complaints from escalating and may sometimes help a complaint being made at all.
- Some groups of service users are more likely to need help in making their complaints. The Directorate contract with advocacy providers to ensure that the views of particularly vulnerable service users are heard. Customer Services hold details of voluntary organisations, community groups and advocacy providers in each area.
- In specific circumstances, it may be necessary to appoint an Independent Mental Capacity Advocate (IMCA) in accordance with the Mental Capacity Act.

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10. Deferring or freezing decisions

If a complaint is about a decision, then it is good practice to consider whether to defer or freeze the decision and delay any change until after the complaint has been considered. The decision to defer a decision or change will normally be made by the Lead Manager. There should be a general presumption in favour of freezing decisions unless there is a good reason against it (e.g. risk factors).

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11. Withdrawing a complaint / concern

If a complainant decides to withdraw a complaint the Complaints Manager will write to confirm that the complaint has been withdrawn. The Lead Manager, with support from the Complaints Manager, will decide whether any action should nevertheless be taken in relation to the issues raised.

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12. Unreasonable or unreasonably persistent complainants

A very small minority of complainants may be classed as unreasonable or unreasonably persistent. While we should accept that people making complaints may be upset, angry or distressed, we do not expect people to pursue their complaints in a way that is disproportionate, abusive or uses up an unreasonable amount of the councils limited resources.

It is important to recognise that complainants who appear unreasonable or are unreasonably persistent, or are otherwise difficult for staff to deal with, may have perfectly valid complaints.

Staff should not be expected to put up with persistently abusive behaviour and should report such incidents immediately to their line manager. Managers should take steps to address persistently unacceptable behaviour in relation to complaints by referring to the [Unreasonable Customer Policy](#).

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13. Anonymous complaints and concerns

Anonymous complaints should always be recorded and referred to the complaints team in the same way as other complaints. Anonymous complaints fall outside of the scope of this procedure and it is for the Complaints Manager to decide what action should be taken.

It should be understood that some people may wish to preserve their anonymity, especially if feeling vulnerable and concerns and complaints will not be disregarded simply because they have been made anonymously.

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14. Scheme of delegation - Complaints about Adult Social Care

A [Scheme of Delegation](#) approved by IMT dictates which managers should deal with complaints as lead and sign off managers, depending on the service area and risk rating. Some discretion is required to ensure that managers do not deal with complaints where they themselves have been involved with the decision or events complained about.

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15. Recording and Monitoring

The Complaints Manager must record all complaints, the outcomes of complaints and whether the Directorate responded within the timescale agreed with the complainant at the outset of the process (or amended date if this happened during the process). This recorded information will form the basis of a quarterly report on Compliments, Comments, Concerns & Complaints to Integrated Management Team and will feature in an Annual Report.

Records of complaints will be held by the complaints team for a period of ten years in accordance with the County Council's Records Management Guidance. Thereafter, records will be destroyed.

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16. Data Protection

All functions of the complaints procedure must adhere to the requirements of the Data Protection Act 1998.

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17. Learning From Complaints

Senior Management in conjunction with the Complaints Manager will evaluate and

monitor the effectiveness of the complaints procedure via the quarterly and annual reports. Learning opportunities arising from complaints will be recorded on learning logs completed by Lead or Sign-Off Managers. These will be reported by operational managers or via the Complaints Team to the appropriate Management Team.

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18. Equal Opportunities, Dignity & Respect

Service users who make complaints will be treated with courtesy and their views will be respected. Complainants will not be treated in a disadvantageous or discriminatory manner as a result of having made a complaint. In dealing with complaints staff should be sensitive to the specific needs and preferences of the complainant in relation to race, religion, cultural need, gender or disability.

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19. Mental Capacity Act 2005

Where a complaint is made on behalf of a service user by a third party, we will assume that the service user has capacity to contribute to the investigation of that complaint, unless there is strong evidence to the contrary.

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20. Adult Social Care Complaints Process - Use of Independent People

Independent People as Investigating Officers: Changes to complaints legislation and local policy from 1st April 2009 mean a formal investigation carried out or overseen by a person independent of and / or external to the council is no longer **required** in every case. There may still be instances where it could be useful and may be **considered** by the Lead Manager tasked with drawing up a Complaint Resolution Plan:

Some circumstance in which Lead Managers might think about commissioning an external, independent person to investigate a complaint and produce a report include the following:

- Where the complaint has been assessed as being “high risk”
- When the complaint is complex and the key facts of the case are not already readily available or clearly understood
- Where the council and the complainant are in dispute over key facts
- Where the complainant has requested an external investigation
- Where the complainant has indicated that they have a lack of faith in the councils ability to investigate and or respond to the complaint to the extent that it might prevent the complaint from being resolved
- Where the input of an impartial third party might bring increase the chance of resolving the complaint
- Where a complaint is one of a number of broadly similar complaints which the council might more readily respond to by commissioning a single investigation.

Independent Dispute Resolution: Independent people may be used to assist in disputes between parties, particularly where the relationship between the two parties

(i.e.: between the council and the complainant) has become strained or has broken down. This process is similar to mediation.

The independent person would:

- Meet with the complainant to establish the nature of the complaint and the desired outcome. Check that the party is willing to negotiate a mutually agreeable resolution to the issues raised
- Meet with the relevant manager to establish the council's position in relation to the complaint and the complainants desired outcome. Check that the party is willing and is authorised to negotiate a mutually agreeable resolution to the issues raised
- Hold a meeting between the two parties during which both parties agree to make effort to negotiate a mutually agreeable resolution to the issues raised
- Help people communicate, negotiate, explore solutions and work towards agreement
- Ensure that both parties listen to, respect and understand the views of the other
- Record the outcomes of that meeting and any agreement reached and send to both parties

The independent person would not:

- Take sides
- Impose a solution on either party
- Arbitrate i.e.: make a final decision
- Express opinion or personal views
- Have any ongoing involvement in the complaint following the meeting

Independently Chaired Meetings

This could be useful where a formal meeting between the council and complainant is proposed. Using an independent chairperson might serve a variety of purposes including:

- Indicate that the council is taking a complaint seriously
- Make the complainant feel more confident about fairness of process
- Allow Lead Manager to concentrate on participating in rather than running the meeting
- Address (or partially address) real or perceived power imbalance between complainant and council
- Provide an impartial independent record of any agreements made or decisions reached (including anticipated timescale)

The independent chair would:

- Clarify (at the outset or prior to the meeting) what each party wants from the meeting
- Set ground rules and explain how the meeting will be organised
- Ensure that the meeting runs in an orderly way and keeps within remit and timescale
- Ensure that both complainant and council have adequate opportunity to have their say
- Facilitate discussion between the council and the complainant about options for resolving the complaint
- Record key arguments, decisions or agreements

If you would like to use the services of an independent person or if you would like to discuss any of the options then please contact the Complaints Team on 01228 221234

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21. Publicity, information & training

The Complaints Team will ensure that there is effective publicity, appropriate to the needs of its service users, about its complaints arrangements and the support available.

The main [Compliments, Comments, Concerns & Complaints Leaflet](#) is available on-line. An Easy Read version specifically for adults with learning difficulties or disabilities can also be found here. Information on complaints can, on request, be provided in Braille, on audiotape, CD and can be translated into other languages. The range of leaflets produced by the team can be found in the electronic library. Any forms or leaflets not in the e-library are out of date and should not be used.

Training, organised by the Complaints Team is available. There will be specific *Complaints Leads Training* for managers who may be asked to act as Lead Managers or to sign off complaints. The Complaints Team can attend team meetings to do short complaints briefing sessions for groups of staff. Contact the Complaints Team on 01228 221234 to arrange.

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22. Some things we don't deal with as complaints or deal with under separate procedures

Not all problematic issues are treated as complaints which can be dealt with via the *Compliments, Comments, Concerns and Complaints Procedure*. When a complaint is first received, there will be a risk assessment and some consideration of other procedures, which may be more appropriate:

Some complaints should be dealt with **under other procedures**. For example:

- Complaints that include allegations about potential mistreatment of vulnerable adults may be dealt with under the Safeguarding Procedures ([Adult Social Care Procedure P9](#)). **Safeguarding always takes priority**. Complaints may be dealt with once any risk of abuse has been eliminated.
- Complaints about political decisions, national policies, and legislation or budget allocations may be more appropriately raised with an MP or Councillor. Complaints may, of course, be made to Directorate about the way in which we interpret or implement those policies.
- Complaints made by other responsible bodies (e.g. by other councils or by colleagues in health).
- Complaints where people intend to or are in the process of taking legal action to resolve may be better dealt with as legal issues. Lead Managers should discuss with the Complaints Manager or refer cases to Legal Services for advice.
- Complaints made by members of staff. Grievances or allegations of Bullying or Harassment are investigated via separate personnel procedures. Personnel (grievance, disciplinary or bullying and harassment) can run concurrently with complaint investigations. If there is a complaint investigation at the same time as a personnel investigation, there should, as a matter of

good practice, be restrictions in providing confidential/personal information to the complainant. Staff cannot use the Comments, Compliments, Concerns and Complaints Procedures to raise issues about conditions of service or to complain about harassment at work as separate Grievance, Disciplinary and Harassment Procedures exist to deal with these.

- Complaints that constitute whistle blowing will be dealt with in accordance with the relevant procedure [Officers' Code of Conduct](#)

Some things are not treated as compliments, comments, concerns or complaints at all or are outside the remit of this procedure. For example:

- Requests for advice or information
- Referrals or requests for services
- Criminal matters. Managers should bring any potential criminal offence to the attention of the police or should advise the complainant to do so.
- Complaints arising out of an alleged failure to comply with a data subject request under the Data Protection Act 1998; or
- Complaints arising out of an alleged failure to comply with a request for information under the Freedom of Information Act 2000 (should be referred to the Information Commissioner)
- Complaints made previously and dealt with by current or previous complaints procedures
- Complaints previously considered by the Local Government Ombudsman

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23. Complaints about social care providers

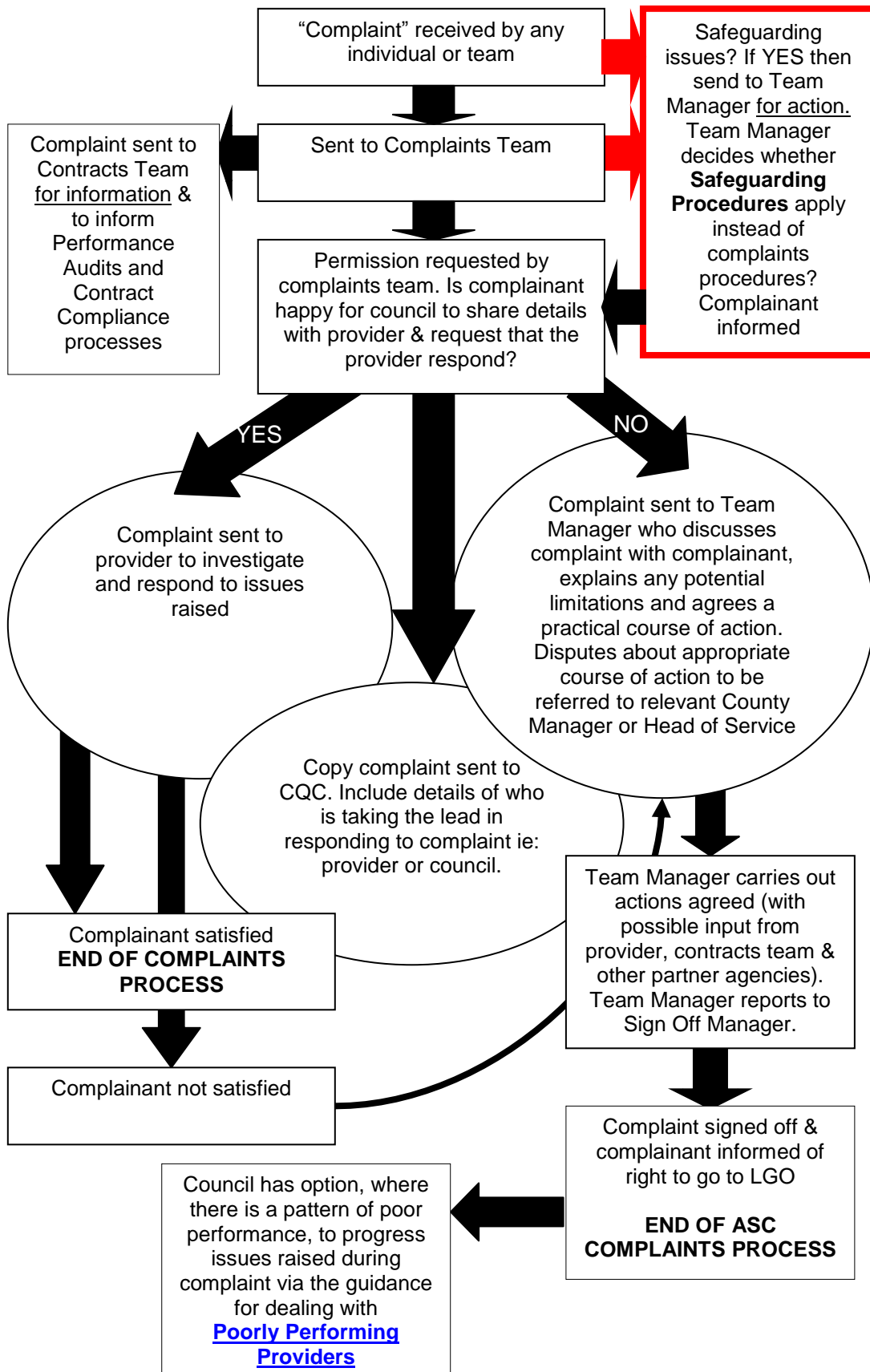
Services registered and regulated by the Care Quality Commission (CQC) such as Care Homes and Domiciliary Care Agencies are required to have their own specific complaints handling arrangements in accordance with the National Minimum Standards & Care Standards Act 2000. People who wish to make complaints about standards of care should be encouraged to make their complaint, with advocacy support if needed, directly to the service provider.

They may also wish to report their concerns to the Care Quality Commission.

The Local Authority continues to have a duty of care and has responsibility for fulfilling its Social Services functions. Team Managers need to consider very carefully whether complaints about providers might constitute a failure in that duty.

If the complaint is in part about care standards and in part about the local authority or its duty of care, we have a duty to cooperate with the Registered Provider in order to provide the complainant a single coordinated response.

Adult social care services arranged or paid for privately are not covered by these arrangements. This includes the situation where a person uses a direct payment provided by the local authority to purchase the services they need. However, people who arrange and pay for their own social care services are, from 1st October 2010, able to refer their complaint to the Local Government Ombudsman.



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24. Complaints involving another responsible body

The legislation governing complaints applies to NHS health trusts, GP's and dentists as well as to local authorities. All agencies covered by the legislation are known as responsible bodies.

Where a complaint involves two or more responsible bodies, there is a duty on parties to work together to identify which body should take the lead to ensure coordinated handling, communicate regularly with the complainant and to provide the complainant with a coordinated response. All responsible bodies have a duty to provide information relevant to the complaint and to attend any meetings, reasonably required. Responsible bodies will be expected to work together to resolve complaints.

In Cumbria partner agencies have agreed a protocol [Cumbria Joint Complaint Protocol](#) which sets out how complaints which involve more than one agency will be dealt with.

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25. Role of the Care Quality Commission

The regulator's role is to ensure compliance with the regulations and associated National Minimum Standards as set out in the Care Standards Act 2000 & Health and Social Care Act 2003. The regulator is not a complaints investigation agency and has no statutory duty or power to investigate complaints.

Where the regulator receives information indicating a concern, complaint or allegation about a care service, it will usually undertake an assessment to determine the nature of its response. In the case of concerns or complaints the regulator would normally refer the matter to the local authority or the care provider. The regulator may choose to investigate breaches of care standards using its powers of inspection.

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CONSULTATION

The following people or groups have been consulted on this procedure

IMT - 9th October 2009

RELATED DOCUMENTS

OTHER RELATED DOCUMENTS	Unreasonable Customer Policy <ul style="list-style-type: none">• <i>Listening Responding Improving – A Guide to Better Customer Care</i> published by Department of Health
LEGISLATION OR OTHER STATUTORY REGULATIONS	<ul style="list-style-type: none">• The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009• Care Standards Act 2000• Health and Social Care (Community Health & Standards) Act 2003• Data Protection Act 1998• Mental Capacity Act 2005
DOCUMENTS SUPERSEDED BY THIS PROCEDURE	<ul style="list-style-type: none">• 10034 Compliments, Comments and Complaints• 20044 Compliments, Comments and Complaints• 30035 Compliments, Comments and Complaints• 30036 Compliments, Comments and Complaints• P11 – Unreasonable and Unreasonably Persistent Complainants

APPROVAL AND REVIEW

Original Author:	Susan Burke
Last Approved By: (Assistant Director)	DMT <i>[Date of meeting for review/approval to be confirmed]</i>
Date Originally Published:	2006-09-01
Date of Next Review:	<i><u>This will be 1 year on from above approval</u></i>

DOCUMENT CHANGE HISTORY

Version No	Date	Issued by	Reason for change
v1.0	2006-09-01	Susan Burke	N/A – first 3P issue.
v1.1	2007-10-22	Susan Burke	Inclusion of references to the Mental Capacity Act and changes to job titles and compliments procedure.

v1.2	2009-04-01	Susan Burke	Changes to legislation governing complaints.
v1.3	2009-10-09	Sue Burke	Added in 2 new appendixes and 3 extra pages. Minor changes were all so made to certain paragraphs.
v1.4	2010-10-08	Peter Earnshaw	Reformatted into new template.
v2.0	2011-01-13	Sue Burke Andrew Clark	Re-referenced & formatted document. Removed section relevant only to external investigators. Updated directorate name & job titles. Add reference to EIA. Reference made to LGO role re self funders. Converted to new format and numbering system – WAS 3Ps 10034 + 20044 + 30035 + 30036. Re-approved by Assistant Director, Disability and Mental Health
v2.1	2012-03-07	Sara Mattinson	General update of content, and teasing out of the statutory complaints procedure. Insertion of reference to Corporate Unreasonable and Unreasonably Persistent Customer Policy. Reformatted into new procedure template.
v2.2	2014-09-05	Jo Richardson	Expiry date extended.
v2.2	2016-09-07	Moyra Robertson	Procedure reviewed, no updates required at this time. Expiry date extended.
V2.3	2017-02-20	Steve Tweedie	Procedure updated to incorporate learning from complaints re appointment of representatives. Contact information for Complaints Team updated together with links to further forms and information contained in the procedure.