



**Adult Social Care  
Complaints, Compliments  
and Comments Procedure**

## Contents

<b>Introduction</b> .....	<b>6</b>
<b>Corporate Complaints Unit</b> .....	<b>7</b>
<b>Making a Complaint</b> .....	<b>8</b>
What is a complaint? .....	8
How to Make a Complaint .....	8
Who can complain? .....	8
Anonymous Complaints .....	9
<b>Non-qualifying Complaints</b> .....	<b>9</b>
Direct Payments .....	9
Staff Behaviour and Attitude.....	9
Insurance Claims.....	10
<b>Mental Capacity Act</b> .....	<b>10</b>
Time Limit.....	10
Other Non-qualifying Complaints.....	11
<b>Legal Proceedings</b> .....	<b>11</b>
<b>Social Care Provider Complaints</b> .....	<b>11</b>
<b>Safeguarding</b> .....	<b>12</b>
<b>Joint Health and Social Care Complaints</b> .....	<b>12</b>
<b>Accessibility and Equal Opportunities</b> .....	<b>12</b>
How long will it take?.....	13
Who will investigate your complaint?.....	14
Putting things Right .....	14
What if you are not happy with the outcome?.....	14
Referring your complaint to the Ombudsman .....	15
<b>Compliments</b> .....	<b>15</b>
<b>Comments</b> .....	<b>15</b>
<b>Public Information</b> .....	<b>15</b>
<b>Satisfaction Surveys</b> .....	<b>15</b>
<b>Unreasonable and Unreasonably Persistent Complainants</b> .....	<b>16</b>
<b>Record Keeping and Data Sharing</b> .....	<b>16</b>

## **Introduction**

Our aim is to put you first and provide you with the best possible service. To make this aim a reality it is important that you tell us what you think about the services we provide. The Adult Social Care Complaints, Compliments and Comments Procedure is one way you can do this. You can tell us when we get things wrong so we can put them right. You can also tell us when we get things right, make comments about the things we do and suggest new ways of doing things.

We understand that sometimes it is difficult to complain and we offer a free advocacy service should you need help making your complaint. If you need to make a complaint we will take your concerns seriously. We will treat you fairly and with respect and you can be confident that you will not receive a poorer service as a result. If we uphold your complaint you can expect an apology and for us to put things right quickly. What we ask in return is that you treat our staff with respect. In addition to resolving your complaint we will use the information we gather on complaints to help us improve the services we provide.

This procedure sets out how we will deal with your complaints in line with the Local Authority Social Services and National Health Service Complaints (England) Regulations which came into effect in April 2009. It also sets out how we will deal with your compliments and comments. The purpose of this legislation is to provide a single complaints process for people who are receiving services from both the Local Authority Adult Social Care Department and the National Health Service (NHS). Our aim is to resolve your complaint and put you back in the position you would have been in before having to make the complaint.

The Assistant Director of Adult Social Care and Housing is the responsible person for ensuring that the Council complies with the arrangements made under the regulations. They will act as the 'Adjudicating Officer', which means they will make any important decisions on complaints and ensure that action is taken if necessary in the light of the outcome of your complaint. In most cases this responsibility will be delegated to the relevant Head of Service.

The Corporate Complaints Manager is the responsible person for managing the procedures for handling and considering complaints in accordance with the agreements made under these regulations. Functions of the Complaints Manager set out in this procedure may be delegated to the Adult Social Care Complaints Officer.

## **Corporate Complaints Unit**

The Corporate Complaints Unit is a single point of contact for anyone wishing to make a complaint. It oversees all Adult Social Care Complaints and provides advice and information to complainants, members of staff and Councillors in relation to complaints.

The Corporate Complaints Unit can provide information about the complaints procedure in other formats and help arrange advocates and interpreters. The Corporate Complaints Unit can also provide advice on the support available for staff involved in complaints.

The Corporate Complaints Unit records and acknowledges all complaints made to the Council. It provides support to Investigating Officers and monitors the progress of complaint investigations. The Corporate Complaints Unit uses the information it collects about complaints to identify any topics and trends to help improve services and is responsible for producing the annual report on complaints, compliments and comments received under this procedure.

The Corporate Complaints Unit also carries out equal opportunities and customer satisfaction surveys to ensure our services meet the diverse needs of the people of Darlington and that people are satisfied with the way we handle their complaints.

The Corporate Complaints Unit is also the central point of contact for the Local Government Ombudsman.

You can contact the Corporate Complaints Unit by telephone, by e-mail, in writing, in person or by any other reasonable means. Please see contact details below.

### **Corporate Complaints Manager**

Telephone (01325) 388401

### **Adult Social Care Complaints Officer**

Telephone: (01325) 388931

E-mail: [complaints@darlington.gov.uk](mailto:complaints@darlington.gov.uk)

Corporate Complaints Unit  
Room 322  
Darlington Town Hall  
Darlington  
DL1 5QT

## **Making a Complaint**

### **What is a complaint?**

Darlington Borough Council defines a complaint as:

*“When someone tells us they are not happy about a service or something we have or have not done that has had an impact upon them”*

This procedure deals with complaints about Adult Social Care services.

### **How to Make a Complaint**

You can make a complaint in person, in writing, over the phone or by any other reasonable means. You can speak to any member of staff or you can contact the Corporate Complaints Unit directly (contact details on previous page).

Complaint forms are available in every Council building and on our website. You can email: [complaints@darlington.gov.uk](mailto:complaints@darlington.gov.uk) or use our online complaints form which you will find at: [www.darlington.gov.uk/complaints](http://www.darlington.gov.uk/complaints)

### **Who can complain?**

You can make a complaint using this procedure if you are receiving an Adult Social Care service or if you are someone who is affected by something a service has or has not done. You can also complain on behalf of such a person.

If you make a complaint on behalf of another person we need that person's consent in order to share their personal information with you. We will also consider whether or not you are acting in that person's best interest before investigating the complaint. If we receive such a complaint without consent we will contact you and advise you of the need to get the person's consent. In the meantime we may start the complaints investigation. If consent is not given, the complaints investigation will be concluded and held on file until consent is received. In such cases the Adjudicating Officer will decide what, if any, actions should be taken as a result of the investigation.

If you are making a complaint on behalf of someone who is deemed to 'not have capacity' as defined by the Mental Capacity Act the complaint will only be considered if we are satisfied that you are acting in that person's best interest. If we have reason to believe you are not acting in that person's best interest we will not consider the complaint and inform you of the reason for our decision. In such cases you have the right to refer the complaint to the Local Government Ombudsman.

For further information see the [Mental Capacity Act](#) Section on page 7.

## **Advocacy**

If you need some help to make your complaint we can arrange for an advocate who will speak on your behalf. We will give you information on the free advocacy service we provide when you make a complaint.

## **Anonymous Complaints**

If you make an anonymous complaint we will investigate the matter but we will not be able to provide you with a response. If you do not want to give your name because you are worried that it might affect the service you receive, please be assured this will not be the case. Following an investigation into an anonymous complaint the Adjudicating Officer will decide what, if any actions should be taken as a result of the investigation.

## **Non-qualifying Complaints**

Some complaints involve matters which are more appropriately dealt with under other Council procedures or are outside of the Council's jurisdiction. In these cases we will let you know which elements of your complaint, if any, we can look at and under which procedure we will investigate the matter.

## **Direct Payments**

Service users and their representatives cannot raise issues under this procedure about services that they arrange and pay for themselves through a Direct Payment. However, we will look at issues about our role in organising your Direct Payment, for example, assessing your needs or any advice and assistance given in setting up your Direct Payments.

## **Individual Budgets**

Service users and their representatives cannot raise issues under this procedure about services that they arrange and pay for themselves through an Individual Budget. However, we will look at issues about our role in organising your Individual Budget, for example, assessing your needs or any advice and assistance given in setting up your Individual Budget. Where you receive services from the Local Authority as part of your Individual Budget/RAS you can complain about those services. *(To be implemented following the introduction of individual budgets).*

## **Staff Behaviour and Attitude**

If your complaint is about the attitude or behaviour of a member of a staff it may be appropriate to investigate the matter under Council employment procedures. Where this is the case we will let you know how we will deal with the matter, however, due to the confidential nature of employer-employee relations we will not be able to provide you with details of the outcome.

## **Insurance Claims**

We will not look into your complaint if the issue is something we should deal with as an insurance claim against the Council. Where this is the case we will advise you of our decision and the reasons for it.

## **Mental Capacity Act**

Under the Mental Capacity Act health or social care professionals can assess a person as lacking capacity and make decisions or carry out actions on behalf of that person. When we make such a decision you cannot challenge it using this procedure. Guidance on how you can challenge decisions made under the Mental Capacity Act is included in the Mental Capacity Act Code of Practice which is available from the Department of Health.

Where we deem someone to 'lack capacity' an Independent Mental Capacity Advocate (IMCA) may be involved in the decision-making process. If your complaint is around the actions of an IMCA in the first instance you should approach the IMCA or their manager and use the service provider's complaints procedure. Following this if you still have concerns we can look into your complaint.

An Independent Mental Capacity Advocate (IMCA) may also use this complaints procedure if necessary to try to settle a disagreement with the Council.

## **Time Limit**

We will not usually look into your complaint if 12 months have passed since the date you learned that something went wrong. However, we may accept your complaint for one or more of the following reasons:

- You are a vulnerable adult and did not complain because you were concerned about what might happen.
- We believe that there would be a benefit to you in looking into your complaint.
- There is likely to be enough information available from the time the incident happened to enable an effective and fair investigation to be carried out.
- There are enough people available from the time the incident happened to enable an effective and fair investigation to be carried out.
- Where action needs to be taken in light of human rights based legislation.

*There may be other reasons why we would consider your complaint that are not included in this list, we will consider each case on its merits.*

## **Other Non-qualifying Complaints**

The following types of complaints do not qualify to be dealt with under this procedure:

- A complaint about matters which have been fully dealt with under this or other appropriate procedures.
- A complaint by an employee about any matter relating to their employment.
- A complaint about the handling of a request for information under the Freedom of Information Act or the Data Protection Act (although we can investigate this under the Council's Corporate Complaints Procedure).
- A complaint which is made orally and is resolved no later than the next working day.
- A complaint about matters which are or have been investigated by the Local Government Ombudsman or the Health Service Ombudsman.
- A complaint about matters decided by a Court.

## **Legal Proceedings**

You cannot use this complaints procedure to challenge decisions of a Court. However, you can complain about the accuracy and quality of information or reports which the Council has provided in court proceedings. We will deal with this separately to the actions of the court. If we uphold your complaint we will advise you what action we propose to take with regard to the court action.

We will not usually consider or further consider your complaint under this procedure if it relates to a matter that is being dealt with by a criminal or civil court. When this is the case the Complaints Manager will inform of this and advise you to resubmit your complaint once the court proceedings have finished. In certain circumstances we may look into your complaint, for example, when putting it on hold would result in you losing a service or not being provided with a service to meet your needs.

## **Social Care Provider Complaints**

If your complaint is about a service provided on our behalf you may make a complaint to us or directly to the organisation providing that service, even if you pay for the service yourself. If you make the complaint to us we will contact you to ask for your consent to pass your complaint to the provider organisation to be dealt with in the first instance. If you have any concerns you can discuss them with the Complaints Manager.



If your complaint is in part about the standard of care provided on our behalf and in part about a service provided by us, for example your assessment, we will contact you to let you know which part of the complaint will be handled by us and ask for your consent to forward the other elements of your complaint to the organisation providing the service. In such cases we will liaise with the organisation and provide you with one response covering all of the issues raised where possible.

## **Safeguarding**

If your complaint involves concerns about your own or someone else's safety we will make an adult and/or child protection referral and follow the Darlington Safeguarding Policies and Procedures. Where possible we will carry out a complaints investigation at the same time.

## **Joint Health and Social Care Complaints**

Complaints that involve services jointly provided by Adult Social Care and the NHS will be dealt with in line with the Joint Health and Social Care Protocol. A copy of the protocol is available from the Corporate Complaints Unit or can be found on our website: [www.darlington.gov.uk/complaints](http://www.darlington.gov.uk/complaints)

## **Accessibility and Equal Opportunities**

We are committed to making sure that everyone has equal access to all our services, including the complaints procedure. To help make sure our complaints procedure is easily accessible we:

- use plain language;
- accept complaints over the phone or in person, in writing, by e-mail, via our website or by any other reasonable means;
- provide information and responses in Braille, large print, audio, easy read format and other languages where needed; and
- provide translators (including sign language translators) where needed.

After you have made a complaint we will ask you your age, gender, ethnic origin and whether or not you consider yourself to be a disabled person. We appreciate you providing this information as it helps us ensure our services can meet the diverse needs of the people of Darlington.

## **The Complaints Process**

If you make a complaint orally and we resolve it by the next working day we may not always formally record and process it under this procedure. If you

make a complaint in writing we will formally record it and process it under this procedure.

You can make an Adult Social Care complaint to any member of staff within the Council. Whoever receives your complaint should forward it to the Corporate Complaints Unit on the day of receipt.

The Complaints Manager will decide whether or not your complaint should be dealt with under this procedure. If the Complaints Manager decides your complaint should be dealt with under this procedure they will acknowledge your complaint within 3 working days of the date your complaint was made to the Council.

If the Complaints Manager decides it would not be appropriate to be dealt with your complaint under this procedure they will inform you of the reasons why and explain how we will deal with the matter.

### **How long will it take?**

The Complaints Manager will assess the seriousness of the issues raised, the likelihood of them happening again and the level of risk involved. This will help us to decide which type of investigation to undertake and whether or not we need to take any immediate action to reduce that risk. There are three types of complaint investigation:

- **Informal Resolution: 20 working days**  
This will be the most appropriate form of investigation to resolve simple miscommunications and one-off errors.
- **Formal Investigation: 25 up to a maximum of 65 working days**  
This is required for more difficult complaints where there are numerous, complex or serious issues which may take time to be fully understood and may be difficult to resolve. We will always aim to resolve your complaint as soon as possible.
- **Joint Investigation: Individual timescales**  
Sometimes Adult Social Care complaints will involve other organisations, predominantly health services. A joint protocol for handling such complaints has been developed between local authorities and the NHS across the North East. The time needed to complete a joint investigation will vary according to the number of issues raised and the number of services involved. For each joint investigation Complaints Managers from the different organisations will work together to

decide a reasonable timescale and agree this with you.

While we will attempt to resolve all complaints in line with the timescales set out above there may be instances where this is not possible. If an investigation takes longer than 6 months to complete, in line with the regulations the Complaints Manager will write to you and explain the reason why.

### **Who will investigate your complaint?**

In most instances a service manager independent of the service you are complaining about will investigate your complaint, they will be referred to as the Investigating Officer.

Once the Investigating Officer has looked into the matter they will write a report and share their findings with the Complaints Manager and the Adjudicating Officer. The Adjudicating Officer will decide what action to take in line with the recommendations of the investigation report. The Adjudicating Officer will then write to you outlining the findings in relation to your complaint and what the Council intends to do to put things right. They will also let you know what to do should you remain dissatisfied.

### **Putting things Right**

When you make a complaint we will ask you what you would like us to do to put things right. We will take your views into account but it may not always be possible to give you exactly what you want. Where this is the case, we will discuss the matter with you and come to an agreement.

If we uphold or partly uphold your complaint you can expect an apology and for us to put things right quickly. We may also propose a number of other actions. The aim of these actions is to put you back in the position you were in before the problem occurred and make amends for any loss you may have suffered as a result. Although we will consider each complaint on its merits we will try to ensure we offer similar remedies for similar situations.

Remedies may include a review of our practices and procedures to ensure that the same thing does not happen again, or we may take a specific action.

### **What if you are not happy with the outcome?**

In the first instance you should contact the Complaints Manager to discuss the matter providing any further evidence in support of your complaint where possible. The Complaints Manager will share your views and any additional evidence with the Investigating Officer and the Adjudicating Officer who will reconsider their findings where appropriate. If it is not possible to resolve the matter based on the additional evidence provided and you remain dissatisfied you may refer the matter to the Local Government Ombudsman (or Health Services Ombudsman for some joint complaints).

## **Referring your complaint to the Ombudsman**

You can refer your complaint to the Local Government or Health Service Ombudsman at any time. **However, the Ombudsman is unlikely to consider your complaint unless we have investigated it fully under the Adult Social Care complaints procedure.**

## **Compliments**

Compliments can help us share good practice and improve services. If you pay someone a compliment in person they will pass the details on to the Corporate Complaints Unit to be recorded.

If you pay someone a compliment via the Corporate Complaints Unit, we will record it, send you an acknowledgement and pass it on to the appropriate person.

## **Comments**

Comments are also a great way of sharing your ideas about particular projects or services in general. If you pass your comments on to a member of staff they will pass the details on to the Corporate Complaints Unit to be recorded.

If you make a comment via the Corporate Complaints Unit, we will record it, send you an acknowledgement and pass it on to the appropriate service.

The Corporate Complaints Unit will record any actions taken as a result of your comment.

## **Public Information**

We will provide information on how to make a complaint on our website. We will also make leaflets available in all Council buildings and include a leaflet in the information pack given to service users and carers at their assessment.

## **Satisfaction Surveys**

Once we have dealt with your complaint we might ask you to complete a satisfaction survey. This is about how you feel we handled your complaint. For example, whether or not we kept you informed, met timescales and so on, it is not about the outcome of your complaint. We would appreciate you taking the time to fill this in and help us improve the way we handle complaints.

## **Unreasonable and Unreasonably Persistent Complainants**

We do not normally limit contact with our offices. However, if complainants display unreasonable behaviour, for example, offensive or threatening behaviour towards staff we may take action to limit their contact. Similarly if you are unreasonably persistent for example, you contact our offices so many times that it hinders our handling of your complaint we may take action to limit your contact. In these cases we will follow the Council's Unreasonable and Unreasonably Persistent Complainants Procedure.

## **Record Keeping and Data Sharing**

During the complaint investigation the Investigating Officer may keep a file containing correspondence and other relevant documentation (such as written notes, transcripts of conversations, etc).

Following the conclusion of the investigation the Investigating Officer will send the documents to the Corporate Complaints Unit. The Investigating Officer will dispose of any irrelevant information in a secure manner (i.e. shredding of paper documents and deletion from electronic systems).

We will keep all records in line with the Council's retention periods. These retention periods are taken from the Records Management Guidelines for Local Government and advice from the National Archives.

During the complaints process it may be necessary to share your personal details with those staff involved in providing your care. We will only share details that are relevant to the complaint. Such details will only be recorded by the Investigating Officer and the Corporate Complaints Unit.

If you decide to take your complaint to the Local Government Ombudsman or the Health Services Ombudsman we may share your personal data with the Borough Solicitor.

If you are classified as an unreasonable or unreasonably persistent complainant some of your personal details will be communicated to Complaints Officers, Director's Personal Assistants, Councillors, members of the Corporate Managers Network and Customer Services Staff. This may include your name, contact details, a physical description (to assist staff who have face-to-face contact with complainants) and details of the behaviour that has resulted in the application of the policy.

All personal data will be securely stored and will be processed in line with the Council's Data Protection Policy and the provisions of the Data Protection Act 1998.

## Further Information

Please see below the list of documents we used in preparing this procedure:

- The Local Authority Social Services and National Health Service Complaints (England) Regulations which came into effect in April 2009;
- Listening, Responding, Improving – Department of Health;
- Joint Protocol for Health and Social Care Organisations;
- Mental Capacity Act Code of Practice – Department of Health; and
- Records Management Guidelines for Local Government and advice from the National Archives.

This procedure links to a number of existing policies and procedures. To be fully understood in its wider organisational context it should be read in conjunction with the:

- Corporate Complaints, Compliments and Comments Procedure;
- Children's Social Care Complaints Procedure;
- Unreasonable and Unreasonably Persistent Complainants Procedure;
- Safeguarding Adults Darlington Inter-Agency Policy;
- Darlington Child Protection Procedures;
- Disciplinary Procedure;
- Grievance Procedure;
- Anti Harassment and Bullying Procedure;
- Guidelines for reporting and dealing with racial incidents;
- Freedom of Information Policy; and
- Data Protection Policy