

City of York Council

Annual Social Care Complaints and Representations Report for Period 2007 - 08

1. Context

This report provides information about complaints made during the twelve months between 1 April 2007 and 31 March 2008 under the complaints and representations procedures established through the Local Authority Social Services Complaints (England) Regulations, 2006, the Representations Procedure (Children) Regulations, 2006.

This legislation was introduced on the 1st September 2006 and this changed the timescales for all stages of the procedure.

All timescales contained within this report are for working days.

In addition to the information given in this report about the number of complaints received in this period there was:

1 commendation received in adult services
2 commendations received in children's services

Thank you letters recorded were:

- adult services 25
- mental health 2
- learning disability services 1
- children's services 7

The team is also aware that many more letters of thanks are received and is actively working to encourage staff to forward these to ensure they are recorded so that a true picture can be gained regarding our customers experience of the services they are receiving.

The legislation makes it clear that people should be able to provide feedback and have this responded to without this being seen as a complaint. Therefore comments and requests are also logged. A request may for example be from a customer who is not happy with the service provided and requests a meeting or reassessment, but does not want to make a complaint in the first instance.

The number of requests and comments received in this period were:

- adult services 11
- mental health 4
- learning disability services 1
- children's services 4

1.1 What is a Complaint?

A complaint is an expression of dissatisfaction or disquiet about the actions, decisions, or apparent failings of a local authority's social services provision which requires a response.

If it is possible to resolve the complaint immediately this does not need to be logged through the complaints procedure.

Representations may be a positive remark, idea or request about the availability, delivery or nature of a service which requires a response.

Where the representation is not resolved to the persons satisfaction they will be entitled to make a complaint at stage 1 of the procedure about the failure to resolve things.

1.2 Who can make a Complaint?

Adult Services

Someone who:

- The local authority has a power or duty to provide or secure the provision of a social service for him/her and
- His/her need for such a service has (by whatever means) come to the attention of the Authority.

This definition also applies to a person acting on behalf of someone who meets the above requirements.

A complaint can be made by a representative where the complaints manager receives permission from the eligible person, usually in writing, giving their permission for the representative to make the complaint on their behalf. A representative will also be able to make a complaint where the eligible person is not capable of making the complaint themselves, this includes where they have died.

The complaints manager will decide if a person is suitable to act as a representative, if it is decided they are not acting in the eligible person's best interests the complaints manager will inform them in writing of the reasons for this.

If a customer is not eligible under the terms of the Act, they will always be able to have their complaint looked at under the council's corporate complaints procedure.

Children's Services

- Any child or young person (or a parent, or someone who has parental responsibility) who is being looked after by the local authority or is not looked after by them but is in need.
- Any local authority foster carer (including those caring for children placed through independent fostering agencies).
- Children leaving care
- Special Guardians
- A child or young person (or parent) to whom a Special Guardian order is in place.
- Any person who has applied for an assessment under section 14F(3) or (4).
- Any child or young person who may be adopted, their parents and guardians.
- Persons wishing to adopt a child.
- Any other person whom arrangements for the provision of adoption services extend.
- Adopted persons, their parents, natural parents and former guardians and such other person as the local authority consider has sufficient interest in the child or young person's welfare to warrant their representations being considered by them.

Where a complaint is received from a representative on behalf of a child or young person, the local authority will, where possible, confirm that the child or young person is happy for this to happen and that the complaint received reflects their views.

The complaints manager in consultation with relevant operational managers will decide whether the person is suitable to act in this capacity and has sufficient interest in the child's welfare. If it is decided that a person is not suitable to act as a representative for a child, they will be informed of the decision in writing by the complaints manager and that no further action will be taken.

Complaints may also be made by adults relating to a child or young person, but are not being made on their behalf. The complaints manager in consultation with operational managers will decide whether the person has sufficient interest in the child's welfare for the complaint to be considered. The child may also be consulted as part of the decision making process.

2. Stages of the Complaints Procedure and statistics

The complaints procedure has 3 stages.

Stage One. This is the most important stage of the complaints procedure. The department's teams and external contractors providing services on our behalf are expected to resolve as many complaints as possible at this initial point.

The council's complaints procedure requires complaints at stage one to be responded to within 10 working days (this can be extended for a further 10 working days in some circumstances where further time is needed to arrange an advocate, or where staff may be away from work. This can only be extended with the agreement of the complainant).

Stage Two. This stage is usually implemented where the complainant is dissatisfied with the findings of stage one. Stage two is an investigation conducted by either an internal manager who has not had any previous involvement in the complaint and has no line management responsibility for the area being complained about, or an external investigating officer. The head of service adjudicates on the findings, although on occasions this can be delegated to a group manager.

The council must appoint an independent person to oversee the investigation process for all stage two complaints in children's services and must be considered in adult services where the complaint is considered to be serious or the complainant is considered to be vulnerable.

Stage two complaints falling within the social services statutory complaints procedures should be dealt with in 25 days, although in certain cases this can be extended to 65 days.

Stage Three. The third stage of the complaints process is the review panel.

Where complainants wish to proceed with complaints about statutory social service functions, the council is required to establish a complaints review panel. The panel makes recommendations to the director who then makes a decision on the complaint and any action to be taken. Complaints review panels are made up of 3 independent panellists for children's services. In adult services the panel may have a maximum of one elected councillor and must have an independent chair and at least one independent panellist, the third person can either be an elected councillor or a third independent person. There are various timescales relating to stage three complaints. These are:

- setting up the panel within 30 days;

- producing the panel's report within a further 5 days; and
- producing the local authority's response within 15 days.

A further option for complainants is the Local Government Ombudsman (LGO) who is empowered to investigate where it appears that a council's own investigations have not resolved the complaint. Complainants can refer their complaint to the LGO at any time, although the ombudsman normally refers the complaint back to the council if it has not been considered under our procedure first.

3. Activity

The complaints service recorded 84 complaints during the year, compared with 111 last year. This figure is the total number of complaints that the complaints services handled for social care services.

Total complaints made:

Between 1 April 2007 and 31 March 2008, we received 84 complaints and closed 84.

Of the 75 complaints at stage one, 6 progressed to stage two and the rest of the 9 complaints heard at stage 2 moved directly to a stage two either because of their complexity, or because managers who would have responded at stage one had already been involved in attempting to resolve the issues concerned with the complaint.

Of the 9 complaints heard at stage two, none proceeded to stage three. A review panel was originally organised for one complaint, but this was postponed when the complainant wanted the panel to consider additional information. The additional information was then made available to the Head of Service who was the adjudicating officer at stage two and they then made a further offer to settle the complaint without the need to re-convene a review panel.

There was also 3 LGO enquiries received and closed although 1 was heard at stage two in a previous reporting period and then referred to the ombudsman.

3.1 Comparison with the preceding year

This indicates a 24% decrease in complaints from last year within the department.

There is no identifiable reason for the decrease in complaints other than there had been a slight increase last year which may have been in part due to a re-organisation of home care services at the time. However complaints fluctuate up and down from year to year and this is typical of social care complaints received across Yorkshire and Humberside.

3.2 Outcomes of complaints:

2005 – 2006		2006 – 2007		2007 - 2008	
Upheld	18	Upheld	25	Upheld	16
Partly Upheld	26	Partly Upheld	33	Partly Upheld	29
Not Upheld	20	Not Upheld	31	Not Upheld	23
Withdrawn	25	Withdrawn	18	Withdrawn	16
Ongoing	0	Ongoing	4	Ongoing	0
Total	89	Total	111	Total	84

A key requirement of the reform of our complaints procedures has been the importance of informing our service users of the outcome of their complaints.

3.3 Response Times

It is essential that all teams delivering services (including the department's contractors) formally capture and record complaints. It is only by doing so that complaints can be tracked and where things have gone wrong managers can ensure that matters are put right. Senior managers and the complaints team therefore regularly encourage teams to recognise and record complaints and report these to the complaints service.

Stage One Complaints 2007 – 08

Social Care Service	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Services Health & Dis	Children's Services QA	Total	
Number of complaints	no 20	no 20	no 6	no 13	no 8	no 3	no 5	no 0	no 75	% 100

Stage One Response Times 2006 – 07

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Within 10 days	10	14	1	10	4	0	3	0	42	56
Within 20 days	6	1	2	1	0	0	0	0	10	13
Outside of timescale	2	4	1	0	2	0	0	0	9	12
Withdrawn	2	1	2	2	2	3	2	0	14	19

Stage One Outcomes 2006 - 07

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Upheld	4	8	1	0	0	0	1	0	14	19
Partially Upheld	7	7	2	5	3	0	1	0	25	33
Not Upheld	7	4	1	6	3	0	1	0	22	29
Not Pursued	2	1	2	2	2	3	2	0	14	18

Stage One Nature of complaint 2007 - 08

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Attitude of staff	0	2	2	0	0	0	0	0	4	5
Disagree with Policy	0	0	2	5	1	0	0	0	8	11
Disagree with Assessment	2	0	0	1	0	0	0	0	3	4
Discrimination	0	0	0	0	0	0	2	0	2	3
Inappropriate Action	3	11	2	4	6	2	2	0	30	40
Lack of Action	4	2	0	0	0	1	0	0	7	9
Quality of Advice/Communication	0	1	0	1	1	0	1	0	4	5
Disagree with financial Assessment	3	3	0	2	0	0	0	0	8	11
Home Care Changes	8	1	0	0	0	0	0	0	9	12

Complaint made by:

Following the guidance produced by the Department of Health and the Department for Education and Skills, we are identifying who is making the complaint to get a greater understanding of our complainants. However as the team only began looking into this in more detail after the new legislation had been implemented, further information including ethnic origin is not available for this report, but will be included in future.

4.2 Equalities Information – Service Users

Gender of Service User at Stage One

	Adults Purchasing		Adults Providers		Mental Health		Learning Disability		Children's Services 0-10		Children's Services 11+		Children's Health & Dis		Children's QA		Total	
	no	%	no	%	no	%	no	%	no	%	no	%	no	%	no	%	no	%
Male	9		4		2		5		2		1		2		0		25	33
Female	11		16		4		8		6		2		3		0		50	67

Gender of Service User at Stage Two

	Adults Purchasing		Adults Providers		Mental Health		Learning Disability		Children's Services 0-10		Children's Services 11+		Children's Health & Dis		Children's QA		Total	
	no	%	no	%	no	%	no	%	no	%	no	%	no	%	no	%	no	%
Male	0		1		0		0		1		0		0		0		2	22
Female	2		3		0		2		0		0		0		0		7	78

Surveys are sent to every complainant after each stage of their complaint, 29 were returned at stage one and 3 were returned at stage two.

29 people stated they were White British and 1 stated they were Irish.

19 people responded to say they had a disability and the following categories were recorded:

Physical Disability	12
Learning Disability	1
Mental Illness	1
Sensory impairment	2
Other	2

At stage one 43 complaints were made on the customers behalf either by a friend, family member or advocate.

At stage two 8 complaints were made on behalf of the customer.

4.3 Stage Two Complaints

There were 9 Stage two complaints during the year, compared to 15 last year.

4 stage two complaints required investigations undertaken by external independent investigating officers.

Reasons for delay include arranging advocates and difficulties arranging appointments with both staff and complainants, particularly at adjudication. However the council considers it of utmost importance to invite complainants to an adjudication meeting before the response is finalised so that they have the opportunity to discuss their complaint with a senior manager and ensure that their concerns have been heard clearly by them. Complainants are kept updated where there are delays in providing a final response to their complaint and in most cases have preferred to take up the offer of a meeting with the adjudicating officer before the response is finalised, even though they realise this may take some time to arrange. It is considered that the opportunity for complainant to discuss their concerns directly with a senior manager at adjudication has in part contributed to the fact that no complaints have progressed to stage three in this period.

Stage Two Complaints 2007 – 08

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Number	2	4	0	2	1	0	0	0	9	100

Stage Two Response Times 2007 – 08

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Within 25 days	0	0	0	0	0	0	0	0	0	0
Within 65 days	2	0	0	0	0	0	0	0	2	22
Over timescale	0	3	0	1	1	0	0	0	5	55.5
Withdrawn	0	1	0	1	0	0	0	0	2	22
ongoing	0	0	0	0	0	0	0	0	0	0

Stage Two Outcomes 2006 – 07

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Upheld	1	1	0	0	0	0	0	0	2	22
Partially Upheld	1	2	0	1	0	0	0	0	4	44
Not Upheld	0	0	0	0	1	0	0	0	1	9
Not Pursued	0	1	0	1	0	0	0	0	2	22
ongoing	0	0	0	0	0	0	0	0	0	-

Stage Two Nature of Complaint 2007 – 08

	Adults Purchasing	Adults Providers	Mental Health	Learning Disability	Children's Services 0-10	Children's Services 11+	Children's Health & Dis	Children's QA	Total	
	no	no	no	no	no	no	no	no	no	%
Attitude of staff	0	1	0	0	0	0	0	0	1	9
Disagree with Policy	0	0	0	2	0	0	0	0	2	22
Disagree with Assessment	1	0	0	0	0	0	0	0	1	9
Discrimination	0	0	0	0	0	0	0	0	0	
Inappropriate Action	0	1	0	0	1	0	0	0	2	22
Lack of Action	0	2	0	0	0	0	0	0	2	22
Quality of Advice/Communication	0	0	0	0	0	0	0	0	0	
Disagree with Financial Assessment	1	0	0	0	0	0	0	0	1	9

In addition to the figures above in Children’s Services 2 of the Stage One complaints became stage Two complaints under the corporate complaints procedure as they were not eligible to be pursued under the social care legislation. This is because the complaints were not made on behalf of the child or young person.

5. Stage Three Complaints

There were 0 Stage Three complaints this year. This compares with 2 complaints at this stage last year. Timescales relating to statutory social services Stage three complaints include:

Timescales

- A panel should be held within 30 working days.
- The panel is required to produce a report within 5 working days of the panel meeting detailing its recommendations.
- The local authority should send a response within 15 days of the panel’s report.

5.1 Stage Three complaints by Service Area, Timescales and Outcome.

	Number received	Setting up Panel (28 day timescale)	Setting up Panel (30 day timescale)	response & panel report (28 day timescale)	Panel report produced (5 day timescale)	Council Response (15 day timescale)	Outcome
Adult Purchasing	0	0	0	0	0	0	-
Adult Providers	0	0	0	0	0	0	-
Mental Health	0	0	0	0	0	0	-
Learning Disability	0	0	0	0	0	0	-
Children Services	0	0	0	0	0	0	-

6. Ombudsman complaints and enquiries.

During the year, 3 complaints were considered by the LGO. The conclusions reached by the Ombudsman are detailed below.

Service Area	Total	Outcome of Ombudsman Consideration	
		Ombudsman Discretion – no or insufficient injustice	Premature Complaint
Adults Purchasing	1	No evidence of maladministration.	-
Adults Purchasing	1	Local settlement	-
Mental Health	1	Outside jurisdiction	-

7. Percentage escalation (last year's figures are in brackets)

The following table indicates how many complaints have escalated from stage one to stage two and how many have progressed from stage two to stage three. By measuring these figures as a percentage we are to gauge customer satisfaction with our responses to their complaints.

Stage 1 to Stage 2	6 (8%)
Stage 2 to Stage 3	0

8 Expenditure

There are ongoing costs attached to delivering an effective complaints service for the department. These costs should be seen against the inherent costs of not providing this service. These may include customers dissatisfaction escalating and compensation awards being recommended by the LGO, increased judicial reviews and non compliance with legislation.

8.1 Cost of delivering the complaints procedure:

	£
Investigating Officers	11718.00
Independent Persons	1379.00
Review Panel	36.00
Training	0
IP contract	7462.00
Advocates	0
Other	28,329.00
Service Budget Total	48,924.00

8.2 Compensation Payments

The council provides compensation if, after a complaint has been investigated or as part of an LGO's investigation, it is concluded that:

- the LGO would find that there has been maladministration by the council causing injustice to the complainant; and
- he would recommend that compensation should therefore be paid to the complainant.

During the year 2 amounts of compensation were paid following consideration of complaints, at Stage 2. This was a total of £750 with £250 being paid to one case and £500 to the other.

9 Alternative Dispute Resolution

The council is always happy to consider appropriate ways of resolving a customer's complaint. Some of the types of action the council has undertaken to resolve complaints have been: issuing apologies, meeting with customers to hear their concerns and suggestions for improvements and putting these improvements into place. This has been particularly relevant in the case of communicating effectively with customers and putting strategies into place to ensure that people are kept up to date. The council also offers a re-assessment of needs where possible, to ensure that nothing has been missed or that circumstances have not changed. In addition to this Direct Payments have been offered as a means of enabling a customer to have more flexibility around how their needs are provided for.

10 Complaints dealt with by the local authority and NHS Bodies

The complaints team works with contracted agencies and statutory agencies to identify the main themes concerned in a complaint. Informal agreements are in place to provide the customer with a co-ordinated response with the agency responsible for the provision of the main areas of complaint taking the lead with co-operation from the other agencies as required.

11 Learning Lessons/Practice Improvements

Complaints provide senior managers with useful information in respect of the way that services are delivered. The consideration of complaints has resulted in agreement to undertake the following actions:

- Procedures for supporting self medication during respite care were reviewed to ensure they were in line with National Minimum Standards and adequately assessed risk and balanced this against the customers desire and ability to control their own medication.
- The procedure for gathering information about people prior to admission for respite has been improved to ensure information is clear and comprehensive so that staff can have a more detailed understanding of customers needs, wants, abilities and limitations.
- The process of transition between children's and adult services for people with learning disabilities is being reviewed and the information on the process updated to provide more clarity for customers and their families.
- A "Welcome" document has been drawn up, and an Admission Pack for people being admitted into respite care.
- A named worker system has been introduced for people using respite care facilities.
- Procedures for discharge from respite care have been amended to include a checklist to ensure all belongings are returned anything lost is reported and anything noted for follow up/passing on information etc is actioned.
- Reinforced to social workers the need for a discussion at the start of placements about the amount of pocket money a young person will receive & what this will cover. Also reinforced to foster carers that young people must have some 'unconditional' amount of pocket money, even if they operate an 'earned' amount of pocket money for their own children.
- The need for clear written plans regarding contact including telephone contact for looked after children to be reinforced with staff.

Cath Murray
Complaints Manager

Date: 11 June 2008