

REPORT TO:	ADULT SOCIAL SERVICES REVIEW PANEL 2 OCTOBER 2013
AGENDA ITEM:	8
SUBJECT:	ADULT SOCIAL CARE ANNUAL COMPLAINTS REPORT FOR 2012/2013
LEAD OFFICER:	HANNAH MILLER, EXECUTIVE DIRECTOR ADULT SERVICES, HEALTH & HOUSING
CABINET MEMBER:	COUNCILLOR MARGARET MEAD, CABINET MEMBER FOR ADULT SERVICES & HEALTH
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT: Supports Council aims of “Improving Health and Social Care” and “Providing Better and Fairer Access.”	
FINANCIAL SUMMARY: No implications	
FORWARD PLAN KEY DECISION REFERENCE NO: None	

For general release

1. RECOMMENDATIONS

1.1 Members are asked to note the content of this report

2. EXECUTIVE SUMMARY

2.1 As part of the requirements of the Local Authority Social Services and National Health Complaints Regulations (England) 2009 (the Regulations) to make arrangements for dealing with complaints, Regulation 18 requires local authorities to produce an annual report specifying the number of complaints received, the number of complaints that were well-founded, the number of complaints referred to a local commissioner, and a summary of the nature of complaints and service improvements arising.

- 2.2 This report summarises the department's management of complaints considered in the 20012/13 financial year under the 2009 regulations, as well as complaints about adult social care considered through the council's local complaints procedure (also known as the corporate complaints procedure).
- 2.3 In general, the data should not be relied upon to provide a sole indicator on the quality of the service, but it can highlight specific concerns at particular times and give a guide to remedial action.
- 2.4 The total number of complaints (statutory and non-statutory) has increased from 86 in 2011/12 to 102 in 2012/13, an increase of 18.6% compared with the previous financial year.
- 2.5 After consideration by the Panel, this report will be published on the council's website as part of the Council's Publication Scheme maintained under the Freedom of Information Act 2000.

3 DETAIL

3.1 STATUTORY COMPLAINTS PROCEDURE

- 3.1.1 A single approach for dealing with complaints about adult social care and health was introduced on 1 April 2009, derived from the Department of Health's guidance, 'Listening, Responding, Improving.'
- 3.1.2 This approach affords organisations greater flexibility to respond to complaints and encourages a culture that seeks and then uses customer experience to drive service delivery and improve quality.
- 3.1.3 This is achieved by focusing on the needs of the customer rather than the process of managing their complaint.
- 3.1.4 The procedure is based around a single-level process whereby the department investigates and responds to the customer. It is worth noting that the Regulations do not prescriptively set out how councils or health care trusts should manage their complaints but do require the arrangements to ensure that:
- Complaints are dealt with efficiently
 - Complaints are properly investigated
 - Complainants are treated with respect and courtesy
 - Complainants receive, so far as is reasonably practical:
 - Assistance to enable them to understand the procedure in relation to complaints; or
 - Advice on where they may obtain such assistance
 - Complainants receive a timely and appropriate response
 - Complainants are told the outcome of the investigation of their complaint; and
 - Action is taken, if necessary, in the light of the outcome of a complaint

3.1.5 Their approach is based around six principles which should underpin how complaints are managed:

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

3.1.6 There is currently only one stage to the complaints procedure. Complaints are investigated by the departments and responded to by the Complaint Resolution Team on behalf of the Executive Director. However, under the arrangements, where the council receives a more complex and/or high-risk complaint, an external investigator will be appointed to investigate the complaint. There were no instances of this happening in 2012/13.

3.1.7 During 2012/13, the adult social care complaints policy was reviewed and the draft policy was presented to DMT in March 2013. Once adopted, the council will operate a two-stage procedure whereby stage 1 complaints are dealt with by operational services (ideally by team managers although in exceptional cases by the appropriate head of service) and stage 2 complaints are reviewed by the Complaint Resolution Team. This approach will mirror the council's procedure for managing corporate complaints. Re-introducing a second stage will also ensure the council has a greater opportunity to resolve complaints locally, which in turn should reduce the number of referrals to the Local Government Ombudsman.

3.1.8 As part of the aforementioned review, the Complaint Resolution Team held discussions with NHS Croydon during the course of the year with a view to entering into a joint working protocol. Whilst discussions were fruitful, the protocol is still in draft due to operational demands on both the council's and NHS Croydon's complaints teams. It is envisaged that the draft protocol will be finalised by the end of 2013 with a view to adoption in 2014 (subject to governance requirements of both organisations).

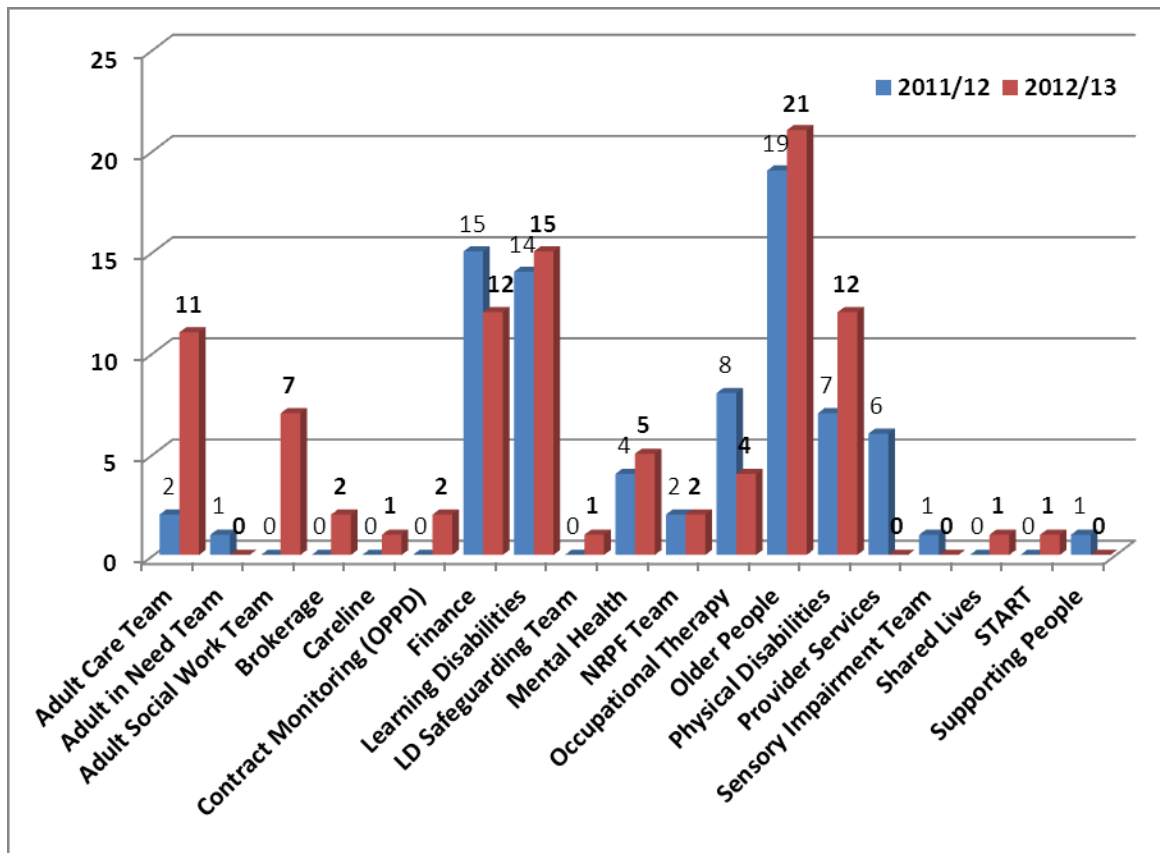
3.2 STATUTORY COMPLAINTS COMMENTARY

3.2.1 The table below shows the number of statutory complaints received in 2012/13 was 97, compared with 80 in 2011/12. This increase (21.3%) is broadly comparable with the increase reported in last year's annual report (21.2%).

Complaints received 2011/12	Complaints received 2012/13	Percentage Increase
80	97	21.3%

3.2.2 The graph below shows the breakdown of statutory complaints by team. The Older People care management teams received the highest number of complaints (21). Learning Disabilities (15) and Operational Finance (12) were

the next most complained about teams. These figures are consistent with 2011/12.



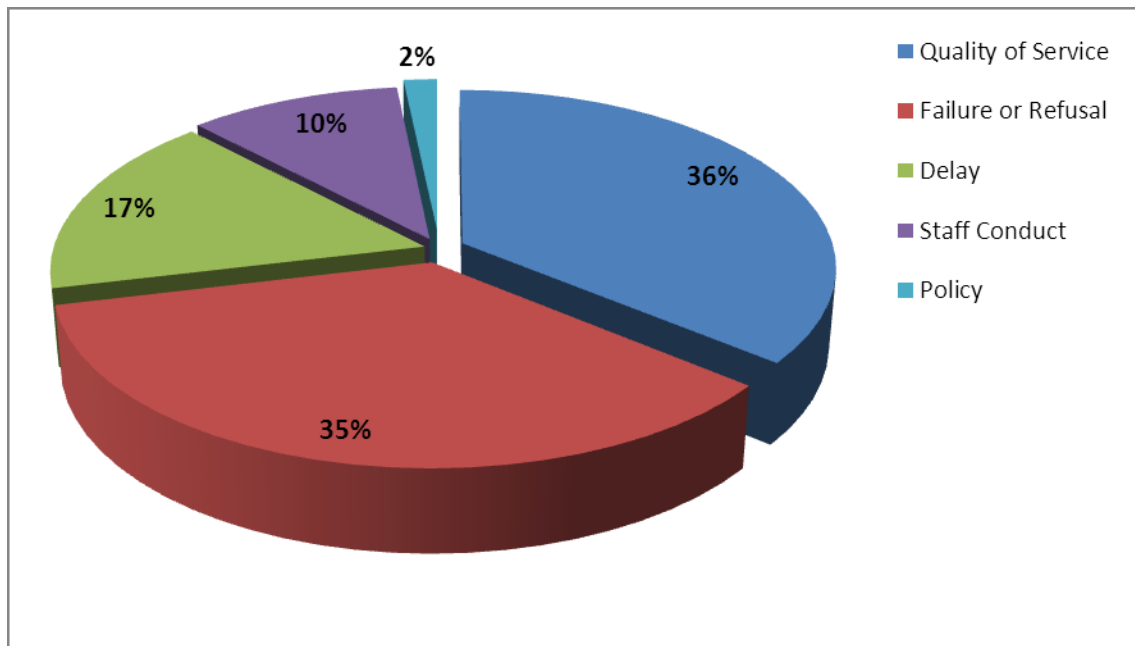
3.2.3 Two areas where there were notable increases (compared with the previous financial year) were the areas of safeguarding and hospital discharge. The Complaint Resolution Team has already started to work closer with the Head of Professional Standards to identify how the council manages customer dissatisfaction concerning safeguarding investigations by ensuring the safeguarding appeals process and the complaints procedure are joined up and applied consistently. Training for staff in the social work teams has also been identified in this area, which the Complaint Resolution Team will be directly involved in.

3.2.4 The Complaint Resolution Team will similarly be looking to pick up the increase in complaints with the Head of Social Work & Safeguarding to analyse whether the increase can be reduced moving forward.

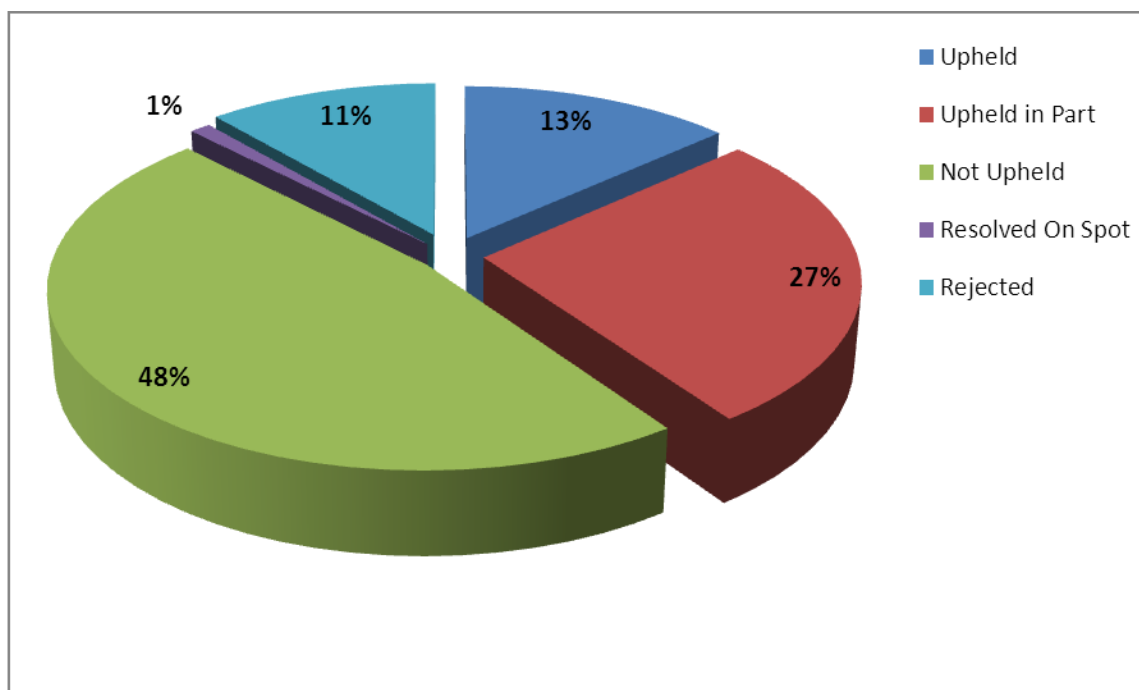
3.2.5 Of the 97 complaints received, there were 181 individual areas of complaint which were categorised. The pie chart below breaks down the categorisation of complaints received. For the fourth consecutive year, the most common cause for complaint is customer dissatisfaction about the quality of service (36%) and service failures/refusals (35%).

3.2.6 Following feedback received on last year’s report, more detailed information about the types of complaints received has been appended to this report to give

a clearer understanding of what is being complained about.



- 3.2.7 There has been a significant improvement in the average length of time it has taken to respond to statutory complaints in 2012/13. The average response time was 21.1 working days. The performance in 2011/12 was 27.8 working days. However, the percentage of complaints responded to within the 20 working day deadline has decreased slightly with 51.5% of complaints received being responded to within deadline compared to 52.7% in 2011/12.
- 3.2.8 The percentage of complaints that were either upheld or upheld in part was 40%, an increase compared with 36.25% in 2011/12.



3.2.9 There were 11 complaints referred to the Local Government Ombudsman for investigation during 2012/13, a decrease of two compared with 2011/12. There were no findings of maladministration in any of the cases.

3.2.10 Four of the 11 complaints related to grievances about the care assessment process while a further three complaints related to financial assessment process/eligibility.

3.2.11 As reflected above, using complaints as a source of constant improvement to service delivery is an important theme of the 2009 complaint regulations. As one would expect, complaints made over the course of the year have resulted in remedial action to address an individual situation: for example, carrying out an assessment or providing information.

3.2.12 However, there were examples where complaints resulted in service improvements, ranging from improving customer care, reviewing training and guidance for staff, reviewing of policy and procedure, and changes to service delivery.

3.2.13 The table below lists examples of service improvements arising from complaints received during the 2012/13 financial year.

Team/Service	Action Taken
Learning Disabilities	Ensure that there are suitable arrangements in place in the event that a team manager and care manager are away on long term sickness to ensure that cases are not left unallocated for any period of time.
Learning Disabilities &	Customer care guidance for care managers to

Physical Disabilities	reinforce the council's customer service standards and the importance of responding to requests for information sensitively.
Physical Disabilities	Review what mechanisms exist for alerting care management, external providers and/or clients where there are delays to payments to providers which would potentially impact on a service user's access to a service.
Older People	Training/guidance to staff in relation to Local Authority Circular (2004) 20 to ensure that where clients' needs can only be met in a specific placement that they are not being asked to pay a third party top up if the placements rates exceed the council's maximum price.
Contract Monitoring (OP/LTC)	Review with Apetito the policy concerning charging service users in advance as the meals on wheels contract does not require payment in advance.
Occupational Therapy	Review practice of referring cases to Major Adaptations Unit (MAU) when it is immediately apparent that the client does not meet MAU eligibility criteria.
Adult Social Work Team	Guidance for staff on the requirements of the council in relation to the Data Protection Act 1998 and the importance of keeping emails/file notes matter of fact.
Financial Assessment Team	Guidance given to staff about managing disputed invoices where the grounds for dispute relate to an allegation of fraud.
Financial Assessment Team	Review practice to ensure that where it is not possible to complete a financial assessment because the client has not had a care assessment, that this is communicated to the client.
Financial Assessment Team	Review of hard copy and website literature in relation to the financial assessment process (NB. While this action arose from a complaint, said review had already commenced).

3.3 NON-STATUTORY COMPLAINTS COMMENTARY

3.3.1 Complaints received which do not relate directly to social care provision are considered through the council's local complaints procedure.

3.3.2 The council operates a two-stage complaints procedure; the first stage is an investigation by the service/division being complained about. If complainants are not satisfied they can request a review by the Complaint Resolutions Team who will investigate the complaint on behalf of the Chief Executive

3.3.3 As the table below shows, there were five non-statutory complaints received in 2012/13, compared with six in 2011/12.

Complaints received 2011/12	Complaints received 2012/13	Percentage Decrease
6	5	16.7%

- 3.3.4 Of the five complaints received, two were about the SNAP team, one each about Occupational Therapy, Adult in Need Team, and Adult Social Work Team.
- 3.3.5 The average length of time taken to respond at stage 1 was 18.2 working days (compared with 24.8 working days in 2011/12).
- 3.3.6 80% of the complaints were responded to within the 20 working day deadline (compared with 66.7% in 2011/12).
- 3.3.7 The percentage of stage 1 complaints that were either upheld or upheld in part was 20% (compared with 33.3% in 2011/12).
- 3.3.8 Two of the five complaints related to service failure or refusal, two complaints were about the quality of service and the final complaint related to delays.
- 3.3.9 One complaint was considered at stage 2 of the council's local complaints procedure. This was a complaint about the SNAP team.

3.4 PLANNED IMPROVEMENTS FOR 2012/13

- 3.4.1 The following have been identified as planned improvements over the course of 2012/13 as part of the council's overall strategy for managing statutory and non-statutory complaints.
- Adopt the new adult social care complaint policy by end of 2013.
 - Review and update literature about the complaints procedure following the adoption of the complaint policy.
 - Finalise the joint-working protocol with NHS Croydon by the end of 2013 with a view to adopting in 2014 (subject to governance requirements).
 - With colleagues in Professional Standards, devise a training programme/event about the interface between adult safeguarding and complaints.
 - With colleagues in Professional Standards, agree an appeals procedure for the Adult at Risk investigation procedure in order that there is clarity for members of the public and staff.
 - Senior Complaint Resolution Officer to resume quarterly reporting and attendance at the DASHH Departmental Management Team (with a view to publishing the quarterly reports on the council website).
 - Identify training for social work managers (ideally tier 4 management level) on complaints management.
- 3.4.2 These actions are by no means exhaustive and improvements for the management of complaints are very much ongoing.

4 CONSULTATION

- 4.1 Although not consultation as such, complaints are an excellent source of customer feedback that can be used to improve and change service delivery.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 Complaints should be resolved quickly, effectively and used to identify, drive and monitor service performance. If this does not consistently happen, there is a real risk that customers can remain or become dissatisfied with the organisation.

6 COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Council Solicitor comments that there are no direct legal implications beyond the requirements of the Regulations already detailed in the body of the report
- 6.2 Approved by: Jacqueline Harris-Baker, Head of Social Care and Education Law on behalf of Julie Belvir, Director of Democratic and Legal Services.

7 HUMAN RESOURCES IMPACT

- 7.1 Where complaints are upheld about staff regarding their performance, conduct, knowledge or skill, this will be addressed through the relevant normal HR practice, policy and procedure. There are no other immediate HR considerations that arise from this report for staff.
- 7.2 Approved by: Michael Pichamuthu, HR Business Partner on behalf of Heather Daley, Interim Director of Workforce And Community Relations

8 EQUALITIES IMPACT ASSESSMENT

- 8.1 The Complaint Resolution Team ensure that data is collected for age, disability and gender, as recommended by Department for Health guidance, and it is used to identify an accurate picture of users, highlight where take-up of services could be improved and ensure that the complaints procedure is fully accessible.

9 ENVIRONMENTAL IMPACT

- 9.1 There are no environment impacts.

10 CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There is no implication for the reduction of crime and disorder.

CONTACT OFFICER:

Darren Shuster, Senior Complaints Resolution Officer (statutory) Ext. 65685

BACKGROUND DOCUMENTS: None

Appendix 1 – Updates on Planned Improvements (from the 2011/12 annual report

Planned Improvement	Action(s) Taken
Review and update literature about the complaints procedure to encourage feedback of all kinds (comments, compliments and complaints), including complaint forms, information on the council website and posters in council buildings	Information on the website has been updated but until the new adult social care complaints policy is adopted, there is a limit to how far this planned improvement can progress. This will be re-visited in early 2014.
Launch of new software for case management (CRM Dynamics) to improve the council's overall management of statutory social care complaints. Testing for CRM Dynamics will commence in July 2012 with an anticipated go-live date in August/September 2012.	The social care module of CRM Dynamics was launched on 17 December 2012. The delay in go-live was due to issues with the new version of CRM Dynamics which was installed in Summer 2012. All adult social care data held in the previous case management system (Tagish) was migrated onto CRM in January/February 2013.
Develop reporting on complaints with a view to publishing information about complaints on the council website	Reporting for adult social care complaints was been developed during Spring / Summer 2013, albeit reports are not presently being published on the website. Complaint Resolution Team are aiming to agree a data framework for publication by the end of 2013 so that data can be published in 2014.
Review arrangements for capturing positive feedback and comments from service users.	This piece of work remains outstanding. As an interim measure, Complaint Resolution Team continues to record all compliments/positive feedback forwarded to the team. This will be re-visited in early 2014.
Develop guidance for staff about the complaints procedure to improve staff understanding of the relationship between the two different complaints procedures and provide training for all social care managers to improve the quality of complaint resolution.	While discussions have taken place with a number of Service Heads concerning training for social care managers, this piece of work remains outstanding. This will be re-visited in early 2014.

Appendix 2 – Complaint Categorisation Breakdown

Complaint Categorisation Value	Complaint Categorisation Sub-Value	No of Complaints
Delay	Delay in Delivering a Service	2
	Delay in Providing Information	3
	Delay in Taking Action	25
Failure or Refusal	Failure or Refusal to Deliver a Service	7
	Failure or Refusal to Give Advice	1
	Failure or Refusal to Meet with Customer	2
	Failure or Refusal to Provide Information	11
	Failure or Refusal to Respond to Letters or Emails	9
	Failure or Refusal to Return Phone Calls	10
	Failure or Refusal to Take Action	21
	Other Failure or Refusal Problem	3
Policy	Cost of Service	1
	Council Policy	2
Quality of Service	Disagreement with Assessment	9
	Inadequate or Incorrect Advice Given	5
	Inappropriate Action Taken	7
	Incorrect Action Taken	7
	Incorrect Decision	2
	Lack of Ownership of Call	1
	Late for Appointment or Visit	1
	Poor Communication	1
	Poor or Misleading Information Given	2
	Service Provided but then Changed or Withdrawn	4
	Unclear Information Provided	2
	Unreasonable Decision	19
	Wrong information provided	1
	Other Quality Issue	4
Staff Conduct	Discriminatory Behaviour	1
	Lack of Customer Care	3
	Lack of Knowledge or Training	1
	Poor Customer Care	1
	Rude or Aggressive Behaviour	5
	Unhelpful Attitude	5
	Other Staff Conduct Issue	3

Appendix 3 – Complaint Issue Breakdown

Complaint Issue Value	No of Complaints
Adaptations	3
Care activities	4
Care assessment/care planning process	42
Care review	16
Day Services	2
Debt recovery/Invoicing	10
Direct Payment/Individual Budget	18
Domiciliary Care	3
Equipment	2
Financial assessment process	15
Hospital discharge	12
Information & Advice	25
Meals on Wheels	2
Placements	5
Referrals	10
Residential	7
Respite/services for carers	5

Appendix 4 – Complaint Case Studies

Case Study 1

Grounds for complaint

Mr A raised concerns in relation to his late mother's (Mrs B) assessed contribution towards the cost of her care:

- The council assessed that a specific residential care home (Home C) was the most suitable to meet Mrs B's needs but charged a third party top-up.
- The council failed to reassess Mrs H's client contribution following confirmation that she was not in receipt of pension credit.
- The council failed to communicate adequately with the family throughout the assessment process. The process was not explained, and clarity was not provided to Mr A when he made enquiries.

Circumstances of the case

Mrs B resided at Home C for approximately six years. She was initially a self-funder and when her savings fell below the threshold level Mr A contacted the council for assistance.

Where a person is provided with residential accommodation under Part 3 of the National Assistance Act 1948, section 22 of that Act provides for him to be charged for the accommodation. The council should undertake a financial assessment, following set rules, to determine whether a person is able to pay for their residential care.

Section 22 requires the local authority to fix a standard rate for the accommodation; which is the cost to the council of providing the accommodation, the 'usual cost'. Council's will usually have contracts with several homes which can provide appropriate care at an agreed standard rate, 'preferred providers'.

If a resident (i.e. a person who is provided, or proposed to be provided, with accommodation under Part 3) is unable to pay the standard rate, the council must assess their ability to pay, and decide what lower amount should be charged. This is the client contribution.

If a person chooses to reside in a care home that is above the Council's standard rate, then a friend or relative will need to agree to fund the difference, the 'third party top-up'.

What happened?

The council assessed that Home C was the most suitable place to meet Mrs B's needs, and that a move to an alternative home could be detrimental to her health. Home C's rates are above the Council's usual cost rate.

The council completed a financial assessment to determine the client contribution. A re-assessment was completed to take account of Mrs H's pension credit.

The council advised Mr A that he could contact a charitable trust to pay the third party top-up if he was unable to do so.

What should have happened?

The council should not have charged a third party top-up in this case, in accordance with the Local Authority Circular (2004) 20. In circumstances where a service user's assessed needs can be met only by their existing accommodation, neither the resident nor a third party should be asked for a top-up payment. Local Authority Circular (2004) 20 sets out that the council should make up the cost difference between the resident's assessed contribution and the accommodation's fees.

Remedial Action

The council acknowledged that it did not comply with Local Authority Circular (2004) 20 and that it incorrectly advised Mr A to approach a charitable foundation to pay Mrs B's third party top-up. The council agreed to reimburse the charitable foundation the money they paid to Home C. The council similarly acknowledged that it did not communicate effectively with Mr A and agreed to make a payment of £250 and issue a written apology.

Case Study 2

Grounds for complaint

Mrs D raised concerns via her solicitor in relation to the involvement of Occupational Therapy and Older People Care Management:

- The council failed to assess Mrs D's needs when she came to its attention as a potential service user in 2008 when it made adaptations to her home specifically on account of her disabilities;
- The council delayed in assessing Mrs D's need for a ramp between January and June 2011 and failed to assess her needs properly when she came to its attention again;
- The council wrongly closed the referral made to the Major Adaptations Unit on 2 June 2011;
- The council's decision in October 2011 not to refer her case to the Major Adaptations Unit was made on a totally unreasonable basis;
- The council failed to assess Mrs D's needs in January and June 2012 and failed to communicate its decision about service provision for her. This was despite having been specifically given opportunity to put right its mistake when it was asked to carry out a community care assessment with a view to provide care services and adaptations by her solicitors on 17 July 2012;
- Mrs D's daughter in law was asked to complete and return some forms in return for a cheque but the council has not given her a response or explanation as to what this was about;

- The council told Mrs D the referral date for her case to the Major Adaptations Unit was in June 2012, despite having already made a referral on 2 June 2011;
- The council's failure to carry out a Community Care Act assessment denied Mrs D the opportunity to access care services and had the assessment been carried out it would have identified that Mrs D's need to move to a suitable property.

Circumstances of the case

Mrs D lives in a three bedroom house with her son, daughter in law and grandchildren. She is registered blind and suffers from a range of medical conditions. She does not speak English. In 2008, the council adapted the family's downstairs bathroom and installed an electric stairlift.

What happened?

Mrs D's son (Mr E) claims to have contacted the council in January 2011 as Mrs D's mobility difficulties had become worse. There is no record of this contact but there is a record of contact in May 2011. In June 2011, an OT visited Mrs D and watched her moving independently around her bedroom. During the visit Mr E requested a ramp at the front of the property.

The OT completed a care plan form stating Mrs D's level of need was substantial and the need he identified was for front property access. The OT agreed to refer the case to the Major Adaptations Unit (MAU) for an assessment. MAU closed the case in August 2011 on the basis that Mrs B could mobilise and did not meet the criteria for an adaptation; she could exit the property on foot and sit in a wheelchair outside. Mr E says that nobody told him that his mother's case had been closed.

Mr E subsequently requested a reassessment and the same OT visit in October 2011 to ask her to demonstrate how she managed the steps. Mrs D was unwell on the day of the visit and could not come downstairs to meet with the OT. The case was re-closed.

A referral was made in January in 2012 to the OT service by a voluntary project asking for home help and an adult therapy assessment. A duty officer contacted the family to discuss the referral and closed the OT aspect of the referral down on the basis of the information provided as Mrs D's needs had not changed.

The voluntary project wrote to the council in June 2012 to ask that the decision to close the case be reviewed as Mrs D could no longer walk. The case was referred back to MAU to assess her need for a ramp. At the time of this referral, the waiting list for MAU referrals was approximately seven to nine months.

The referral by the voluntary in January 2012 did not result in a Community Care Act assessment until June 2012. When the care manager attended, she was not accompanied by an interpreter and had to carry out the assessment with assistance from Mrs D's daughter in law. Mrs D declined support as she did not want care or assistance from outside of her immediate family; Mrs D subsequently denied refusing care.

The care manager arranged for a one-off payment to be made to Mrs D's daughter in law (a "time for me" payment) in recognition of the work she carrying out as Mrs D's main carer.

What should have happened?

Where an individual's circumstances have come to the knowledge of a council, the council has to assess whether he or she needs community care services. If a council assessment concludes help with home adaptations is needed, the council is required to arrange this assistance. Each council MAU will have criteria for service eligibility for the installation of ramps. Croydon's criteria set out that if an individual can mobilise independently they are not eligible.

After the visit in June 2011, the OT referred Mrs D's case to MAU, even though he had seen her mobilise. She did not meet the criteria for a ramp and the referral should not have been made if it was clear that Mrs D was not eligible for a ramp. This would have resulted in Mrs D's expectation being raised. Moreover, the council failed to advise Mrs D's family why the referral to MAU had been closed.

In relation to care management's involvement in Mrs D's case, there was a significant delay allocating Mrs D's referral to a care manager for a Community Care Act assessment. Similarly, the council did not fully explain to "time for me" payment to Mrs D's daughter in law either.

Remedial Action

The council acknowledges that there was fault in how it dealt with this case and agreed to make a payment of £350 to Mrs D in recognition of the time and trouble her family went to pursuing her complaint and also for the loss of access care services as a result of the council's delay in allocating her referral to a care manager.

Case Study 3

Grounds for complaint

Mr E complained that the council failed to offer appropriate support and assistance regarding the care needs of his parents, Mr & Mrs F. Mr E claims he contacted the council several weeks before we went on holiday to ensure that there was adequate support in place before he went away but the council gave no support in finding a suitable placement for Mr & Mrs F. Mr F claimed that the reason for this was because he had made a complaint about the domiciliary care provision his parents were receiving.

Circumstances of the case

Mr & Mrs F lived in their own home. In February 2012, the council assessed their care needs and established while Mrs F needed personal care/support, Mr F did not. The council arranged meals on wheels provision for Mr & Mrs F and put in a package of support to meet Mrs F's assessed care needs.

What happened?

Shortly after the arranging support for Mr & Mrs F, Mr E's wife (Mrs E) contacted the council to advise that the Mr & Mrs F should be in residential care. The duty officer explained that other avenues would need to be considered before placing Mr & Mrs F in residential care, such as assistive technology. The duty officer also explained that the complaint that Mr F had made about the domiciliary care provision would need to be addressed.

The duty officer went on to explain that it would be possible to put in place respite care for Mr & Mrs F before Mr & Mrs E went away on holiday. Mr E requested a call from the duty officer's manager; there is no record of this call being made.

On the basis of the advice given by the duty officer, Mr E decided to privately arrange a respite stay in a residential home (Home G) as he was concerned about how his parents would cope while he was away.

At the start of March 2012, a care manager met with Mr & Mrs F to review the care package following complaints about the provision of the domiciliary care. Mrs E was present at the meeting. The council decided the domiciliary care package should remain in place. Mr F stated that he wanted to move to a residential home and use his home to fund the move. The care manager explained that Mr F did not meet the criteria for residential carer and as such the council would not fund anything toward the cost of any placement for him.

It was not clear at this point whether Mrs F needed residential care. The care manager discussed other options and explained that the aim was to keep people living in the community as long as possible. The care manager further explained that she did not think it likely that Mrs F would be eligible for council funding for her care but that she would seek a nursing needs assessment as it may be possible that her care could be funded by health.

The care manager provided Mrs E a booklet called "choosing and paying for a care home". Mrs E explained that she had booked Mr & Mrs F into Home G for a four week respite stay. The care manager explained to Mrs E that a respite placement was not a forerunner to a permanent placement and the Council would not be responsible for payment should Mr & Mrs S decide to stay there. The care manager also explained that as the placement was arranged independently of the council, that the council would not be financially responsible for the placement.

In April 2012, the care manager met with Mr & Mrs F in the residential placement to establish if they had capacity to decide where they wished to live; Mr F did, Mrs F did not. Mr F confirmed that Mr E had Power of Attorney to make decisions on Mr & Mrs F's behalf.

The care manager explained to Mr & Mrs F the outcome of the nursing needs assessment that Mrs S did not have nursing needs and did not require a nursing home. The care manager also that Mr F did not have any eligible care needs. Mrs F did have

eligible care needs but she would need to be financially assessed to ascertain what financial support, if any, the council would be able to provide at Home G. Mr F confirmed that both he and Mrs F were comfortable in Home G and that Mr E was selling his home fund the placement.

What should have happened?

Section 47 of the National Health Service and Community Care Act 1990 requires councils to carry out an assessment of need for all people in their area who may be in need of community care services. If a council identifies that a person needs community care services which it provides, and if that person meets any eligibility criteria which the council has set (Fair Access to Care Services), then it must provide those services. A statement of the needs the council has identified, the services to be provided and the objectives of providing the services are contained in a care plan agreed with the service user.

The power of local authorities to make reasonable charges for community care is contained within section 17 of the Health and Social Services and Social Security Adjudications Act 1983. The council should carry out a financial assessment to see what, if anything, a service user should pay towards their care services based on their means. For those above the financial threshold (currently £23,250), or where financial assessment is declined, the service user will be considered liable to pay the full cost of the care.

In this case, the council properly carried out a care needs assessment. The council were unable to complete a financial assessment for Mrs F as her Power of Attorney (Mr E) failed to provide all of the requisite information. Thus, Mrs F was liable to pay the full cost of her care.

It was incorrect for the duty officer to advise Mr E that his complaint about the domiciliary care would need to be resolved before action could be taken concerning the request for respite support. The fact that Mr E had made a complaint should not be an obstacle to meeting its statutory duties and this advice was clearly misleading. It is worth noting, however, that the care management did continue to progress the request for respite. It would also have been frustrating for Mr E that his request for a telephone call from the relevant manager was not returned.

Remedial Action

The council apologise for those areas of fault identified during the investigation and offered to support Mr E to complete the financial assessment to establish whether Mrs F was entitled to any financial assistance.

Case Study 4

Grounds for complaint

Mrs H complained that the council did not act reasonably by assessing her savings for the purposes of assessing financial contribution for non-residential care she was receiving.

Circumstances of the case

Mrs H is in receipt of care services from the council. The council carried out a financial assessment of Mrs P's income and savings and advised her that she would have pay the full cost of her care as her savings were in excess of £23,250.

What happened?

Mrs H appealed the decision on the following grounds:

- Mrs H and her husband (Mr H) live in their son's property and were in the process of paying him some money as he was financially struggling;
- Although the savings were in joint names it had only been Mr H who had contributed to the savings. Joint names were only included on the bank books to avoid unnecessary bureaucracy in the event that Mr P died;
- Only Mr P accessed the bank accounts; Mrs P had separate accounts where she paid her pension.

The council considered the information provided at appeal and concluded that it did not accept Mrs P's argument that she wanted to pay his son for unpaid rent as he was in financial difficulty. It therefore did not uphold the original assessment.

What should have happened?

Paragraph 66 of the council's Fairer Charging Guidance says,

“Jointly held savings should be treated as divided equally between the owners, unless the contrary is demonstrated by, or on behalf of, the user. The minimum savings levels to be applied should be those set out in the Charges for Residential Accommodation Guidance (CRAG).”

The purpose of the complaints procedure is to ascertain whether the council has acted reasonably in accordance with the law, its own policies and procedures and generally accepted standards of local administration. The complaints procedure is not a mechanism to challenge decisions which have been properly made, nor is a means by which professional judgements can be challenged.

In this case, there was no fault in the way the council considered Mrs H's arguments about intended payments to family members. The appeal decision clearly shows that the panel consider the arguments raised and reached a decision accordingly. However, the appeal decision gave no indication that Mrs H's argument that savings should not be treated equally was considered.

Remedial Action

In light of the fault identified, the council agreed to reconsider Mrs H's appeal in relation to her available savings taking into account her arguments that the council should not automatically halve the savings held in joint names.