



# **DARLINGTON**

Borough Council

## Adult Social Care Complaints, Compliments and Comments Procedure

2023

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## 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 is the responsible person for ensuring that the Council complies with the arrangements made under the regulations. They will usually 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. This responsibility may be delegated to the relevant Head of Service.

The Complaints and Information Governance Manager is designated the 'Complaints Manager' in accordance with the regulations and is responsible for managing the procedures for handling and considering complaints in accordance with the agreements made under the regulations.

## **Complaints and Information Governance Team**

The Complaints and Information Governance Team is a single point of contact for anyone wishing to make a complaint. The team oversees all adult social care complaints and provides advice and information to complainants, members of staff and Councillors.

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

The team records and acknowledges all complaints made to the Council. It provides support to Investigating Officers and monitors the progress of complaint investigations. The team 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 team is also the central point of contact for the Local Government and Social Care Ombudsman.

You can contact the team by telephone, by e-mail, in writing, by video call, in person or by any other reasonable means. Please see contact details below.

### **Complaints and Information Governance Team**

Telephone: (01325) 406777

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

Complaints and Information Governance Team  
Darlington Town Hall  
Darlington  
DL1 5QT

***N.B. Please arrange an appointment prior to visiting to ensure someone is available to meet with you.***

## **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 Complaints and Information Governance Team 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. If we receive such a complaint without consent we will contact you and advise you of the need to get the person’s consent. We may contact the person to confirm they consent and that they agree with the content of the complaint. If you are unable to obtain consent we are unlikely to investigate the complaint. However, if your complaint raises concerns about someone’s safety or wellbeing we may treat it as a safeguarding referral. The Complaints Manager will write to you explaining our decision and what is going to happen.

If you are making a complaint on behalf of someone who is deemed not to have capacity as defined by the Mental Capacity Act the complaint will only be considered if you have Lasting Power of Attorney (LPA) or are acting in that person’s best interest. If you do not have the relevant LPA we will undertake a Capacity Assessment/Best Interest Decision. 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 and Social Care 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.

### **Involvement of councillors and MPs in the procedure**

If you have any concerns it may be helpful to discuss them with your local councillor. Your councillor can help you decide on the best course of action.

This may involve putting you in touch with the appropriate council officer or making an enquiry on your behalf.

In cases where you need to make a complaint your councillor should refer you to the Complaints and Information Governance Team. They can make a complaint on your behalf and support you through the process. If your councillor does make a complaint on your behalf we will copy them in to all correspondence unless they request otherwise.

Whether or not you seek advice from a councillor you can expect a high quality service.

The same principles will apply where you make your complaint via your Member of Parliament (MP).

### **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 and Individual Budgets**

Service users and their representatives cannot raise issues under this procedure about services that they arrange and pay for through a Direct Payment or Individual

Budget. However, we will look at issues about our role in organising your Direct Payment/Individual Budget, for example, assessing your needs or any advice and assistance given in setting up your Direct Payment/Individual Budget.

If you are unhappy about a service you arrange and pay for through a Direct Payment or Individual Budget you may make a complaint directly to the Local Government and Social Care Ombudsman. If you send your complaint to us we will contact you and ask if you are happy for us to send it to the Local Government and Social Care Ombudsman to investigate.

You can contact the Local Government and Social Care Ombudsman's office by telephone on 0300 061 0614 or 0845 602 1983 (You can also text 'call back' to 0762 480 4299), or in writing to PO Box 4771, Coventry, CV4 0EH. There is more information about the Local Government and Social Care Ombudsman on [www.lgo.org.uk/adult-social-care](http://www.lgo.org.uk/adult-social-care).

### **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 the Council's 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.

If you feel that there has been a fault in the decision-making process it may be appropriate for you to use the complaints procedure, however, there are a number of other resolution options available. You should discuss these with the relevant care manager. Although a best interest decision cannot be overturned through the complaint procedure, if it is found that there was a fault in the decision-making process a re-assessment may be carried out.

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 to see the information we hold about you (a Subject Access Request under 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 and Social Care 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. Where it is intended that there will be, or there are, ongoing legal proceedings in relation to your complaint we may investigate the matter unless we feel it could prejudice the legal action. If we decide not to investigate your complaint the Complaints Manager will contact you to inform you of this. We may investigate your complaint after the legal proceedings have finished.

## **Social Care Provider Complaints**

### **Arranged by the Local Authority**

If we assess your needs and arrange services to meet them you can make a complaint to us even if you pay for the service. You can also make a complaint directly to the organisation providing the service. 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 about both the standard of care provided by the provider organisation and the 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 work with the organisation and provide you with one response covering all of the issues raised were possible.

### **Private Arrangements**

If you have arranged and pay for your own care we will not be able to investigate your complaint about the service provided. Since October 2010 complaints made by people who arrange and pay for their own social care came under the jurisdiction of the Local Government and Social Care Ombudsman. If you send your complaint to us we will contact you and ask if you are happy for us to send it to the Local Government and Social Care Ombudsman to investigate.

You can contact the Local Government and Social Care Ombudsman's office by telephone on 0300 061 0614 or 0845 602 1983 (You can also text 'call back' to 0762 480 4299), or in writing to PO Box 4771, Coventry, CV4 0EH. There is more information about the Local Government and Social Care Ombudsman on their website: <https://www.lgo.org.uk/>

## **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**

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 place a duty on local authorities and the NHS to work together when considering complaints about services provide jointly.

## **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.

## **The Complaints Process**

If you make a complaint verbally 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 Complaints and Information Governance Team 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 received by the Council.

If the Complaints Manager decides it would not be appropriate to be deal 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?**

### **Adult Social Care Complaint Investigations**

30 working days up to a maximum of six months. While the regulations allow a maximum of six months to investigate a complaint we will try to respond to your complaint within 30 working days. If it is not going to be possible to investigate your complaint within 30 working days the Investigating Officer will contact you and explain the reason why. We may need to extend the timescale for response where people are unavailable due to sickness absence, annual leave or other commitments or where we are waiting for an advocate or translator to be appointed. If you do not receive a response by the agreed date you should contact the Complaints and Information Governance Team. If an investigation takes longer than six months to complete, in line with the regulations the Complaints Manager will write to you and explain the reason why.

### **Joint Investigations**

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.

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

We will decide on a 'case-by-case' basis who will be best to investigate your complaint. In most cases it will be appropriate to appoint someone independent of the team you are complaining about. This person will be referred to as the 'Investigating Officer'.

Once the Investigating Officer has looked into the matter they will write up their findings and share them with the Complaints Manager and the Adjudicating Officer. The Adjudicating Officer will then decide what action to take and will write to you outlining the findings 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 and Social Care 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, Compliments and Comments 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 Complaints and Information Governance Team to be recorded.

If you pay someone a compliment via the Complaints and Information Governance Team, 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 Complaints and Information Governance Team to be recorded.

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

Where a response is required the service will provide one within **25 working days** of the date we receive your comment.

The Complaints and Information Governance Team 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 Complaints and Information Governance Team. 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. 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 Complaints and Information Governance Team.

If you decide to take your complaint to the Local Government and Social Care 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 staff, personal assistants, councillors, senior managers 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 UK General Data Protection Regulations (GDPR) and the Data Protection Act 2018. Further details are contained in our [Privacy Notice](#).

### **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, Compliments and Comments Procedure;
- Housing Complaints, Compliments and Comments Procedure;
- Public Health Complaints, Compliments and Comments Procedure;
- Unreasonable and Unreasonably Persistent Complainants Procedure;
- Safeguarding Adults Darlington Inter-Agency Policy;
- Darlington Child Protection Procedures;
- Disciplinary Procedure;
- Capability Procedure;
- Grievance Procedure;
- Anti Harassment and Bullying Procedure;
- Guidelines for reporting and dealing with racial incidents;
- Freedom of Information and Environmental Information Request Procedure; and
- Subject Access Request Procedure.