

Delegated Decision Report

Decision below £250k



Subject:	Adult Social Care Complaints Policy
Decision maker: Senior Officer	Steve Hughes, Assistant Director of Strategy and Performance
Decision maker: Cabinet Member	Cllr Peter Dean, Cabinet Member for Thriving Communities and Culture Cllr Barbara Brownridge, Cabinet Member for Adults, Health and Wellbeing
Decision date:	21.02.2025
Report author:	Fran Lautman, Assistant Director of Customer Experience Kirsty Adderley, Complaints Manager
Ward (s):	All

Reason for decision

To ensure compliance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, and to ensure complaints about Adult Social Care services are handled in a resident focused way, the Council has an Adult Social Care Complaints Policy.

The policy has recently been reviewed and updated to ensure it reflects current process and best practice.

Recommendation(s)

To approve and adopt the updated Adult Social Care complaints policy.

1. Background

- 1.1 The Adult Social Care Complaints Policy provides general information regarding the handling of complaints received in relation to Adult Social Care Services.
- 1.2 It has been reviewed to ensure best practice and compliance with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- 1.3 The policy places emphasis on resolving issues as quickly as possible.
- 1.4 A summary of key policy points is outlined below:
 - Complaints will usually be accepted if they are made within 12 months of the issue arising. If complaints are not raised within this time, then they may be classed as out of time; however, discretion can be given and each case will be treated on its own merits.
 - Most issues can be resolved swiftly and effectively by the relevant Adult Social Care Team and issues that are resolved to the resident's satisfaction, no later than the next working day after the complaint was made, are not required to be dealt with as a complaint via this policy. If the matter cannot be resolved to the resident's satisfaction within this timeframe, a complaint can be taken forward under the policy.
 - Any complaints received will be acknowledged within 3 working days.
 - Once the Complaints Team has sufficient information regarding the complaint to enable an investigation to take place, the complaint will be allocated to the relevant Team Manager, Service Manager or Head of Service from within Adult Social Care for investigation.
 - Where the issues complained about are not felt to be complex, or require input from third party organisations, a response will be provided within 20 working days of the complaint being acknowledged. For matters which are deemed more complex (for example, where there are multiple points of complaint or services involved) or where input from third party organisations is required, a longer timeframe will be allocated. The timeframe allocated will not exceed 60 working days without good reason.
 - We hope to be able to satisfactorily resolve residents' complaints at this stage. However, if residents are dissatisfied with the response they receive, they can contact the Complaints Team and request that their complaint is reviewed.
 - Where a resident asks for their complaint to be reviewed, the review will be undertaken by another manager who will consider whether there are any

additional steps that can be taken to resolve the issues at hand. Upon completion of the review, the resident will receive a final written response.

- Alternatively, if the complainant does not wish for their complaint to be reviewed by the Council, they can exercise their right to take their complaint to the Local Government and Social Care Ombudsman (the Ombudsman) at the point of receiving the initial complaint response. Equally, the complainant can approach the Ombudsman following completion of the Council's complaint review should they remain dissatisfied.
- If a complaint is raised about a commissioned care provider, the provider will usually be asked to complete an investigation and respond to the complaint in the first instance. However, in some circumstances, in agreement with the resident and third party provider, a Council officer may investigate complaints received about commissioned providers of social care services.
- Where complaints involve the actions of an NHS provider, the Complaints Team will liaise with the relevant NHS organisation and where possible, a single response covering all issues will be provided to the resident.
- An annual report will be produced outlining complaint performance, it will include information regarding the number of complaints received, key trends and Ombudsman investigation outcomes. A copy of this report will be available on the Council's website following review by Overview and Scrutiny Committee.
- The policy will be reviewed annually, or as change is required.

2. Alternative option(s) to be considered

- 2.1 Option 1 – Agree the updated policy.
- 2.2 Option 2 – Do nothing and leave the content of the policy as it is.
- 2.3 Option 1 is the preferred option; this is in order to demonstrate best practice in complaints handling and ensure compliance with regulations.

3. Consultation

- 3.1 The Complaints Manager and Head of Business Strategy and Performance for Adult Social Care have worked together to ensure the policy is compliant with relevant legislation.
- 3.2 The policy has been presented for review at both the Adult Social Care and Assistant Chief Executive Department Management Team (DMT) meetings.

- 3.3 The Cabinet Member for Thriving Communities and Culture and Cabinet Member for Adults, Health and Wellbeing have had full sight of the updated policy and are content with the updated policy.

4. Risks

- 4.1 Approving and adopting the policy demonstrate best practice in complaints handling and ensure compliance with regulations as part of our commitment to work with a resident focus.

5. Implications

Financial	Revising the complaints policy will not present any direct financial implications. The resource required to administer the policy will be contained from within existing resources. (Danny Jackson, Finance Manager)
Legal	It is important that a complaints policy, particularly a service area that deals with vulnerable adults has an effective and up to date process in place to deal with complaints. It is important that the policy is compliant with the latest relevant legislation and statutory guidance. The report confirms that the policy is compliant with the relevant legislation. A failure in having an accurate and effective complaints policy in place could lead to criticism by the Ombudsman and a negative reputational finding against the Council as well as leaving local residents frustrated and dissatisfied. (Alex Bougatef, Interim Borough Solicitor)
Equality impact including implications for Children and Young People	N/A


Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution?	Yes
Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget?	Yes
Are any of the recommendations within this report contrary to the Policy Framework of the Council?	No


Background Papers under Section 100D of the Local Government Act 1972

None

Report author sign-off	Fran Lautman
Role	Assistant Director of Customer Experience
Date of sign-off	Friday 20 December 2024

Approval	
Officer approval sign-off	Steve Hughes 
Role	Assistant Director of Strategy and Performance
Date of sign-off	21.02.25

Approval	
Member(s) approval sign-off	Cllr Peter Dean 
Role	Cabinet Member for Thriving Communities and Culture
Date of sign-off	Friday 20 December 2024

Approval	
Member(s) approval sign-off	Cllr Barbara Brownridge 

Role	Cabinet Member for Adults, Health and Wellbeing
Date of sign-off	Friday 20 December 2024

Appendix A: Adult Social Care Complaints Policy



Adult Social Care Complaints Policy

Date: 20 December 2024

**Authors: Kirsty Adderley, Complaints Manager and David Garner,
Head of Business Strategy and Performance Adult Social Care**

Next review date: December 2025

1.0 Introduction

- 1.1 Working with a resident focus is a key priority and we want our residents to be satisfied with our services. However, we recognise that there will be occasions when residents are dissatisfied with aspects of the care and services provided and we are committed to dealing with any problems that may arise as quickly and as effectively as possible.
- 1.2 We recognise the importance of complaints and welcome them as a valuable form of feedback about our services. We welcome hearing our residents' comments, compliments and complaints to better understand how residents view our services and we use these valuable opportunities to learn and improve for the future.
- 1.3 In setting out this policy, we recognise residents' rights to be heard, understood and respected. We will ensure that residents are treated fairly, openly, honestly, consistently and appropriately in accordance with our values and behaviours.
- 1.4 When receiving complaints we will work with a resident focus by taking a collaborative and co-operative approach, meaning staff will work with colleagues from other teams and departments to resolve the issues at hand. We will also take collective responsibility for any shortfalls identified through complaints and using learning to drive improvements. Acting within the professional standards for engaging with complaints as set by any relevant professional body.

2.0 Purpose of the policy

- 2.1 The aim of this policy is to provide a fair and consistent approach to handling and resolving complaints raised regarding the Council's Adult Social Care services.
- 2.2 Emphasis will be placed on resolving complaints as quickly as possible by the service concerned. We will ensure that staff are equipped to deal with complaints efficiently and effectively and lessons learned from complaint investigations will be used to directly inform service improvements.
- 2.3 This policy will ensure that complaints are handled in line with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, and in a manner that upholds the principles of good complaints handling as set out by the Local Government and Social Care Ombudsman.

3.0 What may be complained about?

- 3.1 The complaints process is designed to allow residents and their representatives to express any concerns about the services they receive from Adult Social Care. There is no difference between a 'formal' and an 'informal' complaint. Any expression of dissatisfaction, verbal or written, about Adult Social Care requires a response (unless it is an anonymous contact).
- 3.2 We will consider a complaint under this procedure if the complaint concerns any aspect of Adult Social Care provided to an individual by, or on behalf of, Oldham Council. This could include issues such as quality or level of service provision, charges for a service, failure to follow correct procedure or delays in service provision.

4.0 Exclusions

4.1 Each complaint will be dealt with on its own merits but routinely, the following would not be dealt with under this complaints procedure:

- complaints from staff members from other organisations, such as hospital staff. We would expect any issues like this to be resolved between the professionals involved.
- complaints made by an employee about any matter relating to their employment, including redundancy and pensions.
- complaints which have been made verbally and are resolved to the resident's satisfaction by the end of the following working day.
- complaints which have been investigated and responded to in full via the complaints process previously, unless significant new information comes to light which may affect the outcome.
- complaints that have been previously withdrawn by the resident.
- complaints which have been investigated, or are being investigated, by the Local Government and Social Care Ombudsman.
- requests for information (these will be dealt with by the Information Management Team according to the requirements of the Freedom of Information Act 2000 or Data Protection Act 2018 and accompanying policies, depending on the nature of the request. Where there is a crossover of issues, the Complaints and Information Management Team will work together to resolve it).
- any issues about the way in which the council has dealt with a request for information under the Freedom of Information Act (2000) or Data Protection Act 2018.
- complaints about privately funded care at home via direct payment or in a care/nursing home (we can consider any concerns about the allocation of the funding, or the support provided by the council to enable the customer to manage the direct payment).
- where there are ongoing legal proceedings or claims which are linked to the issues in the complaint.
- any serious concerns for an individual's wellbeing which the Council needs to consider in line with the safeguarding procedure.
- enquiries from MPs and Councillors (complaints made by such persons on behalf of residents will however be considered).
- complaints about the actions of an organisation that is not working for, or supported by Oldham Council.

- 4.2 If we decide not to accept a complaint under this policy, an explanation will be provided to the resident, setting out the reasons why the matter is not suitable for the complaints process.
- 4.3 A resident has the right to challenge the Council's decision to apply an exemption by bringing their complaint to the Local Government and Social Care Ombudsman.

5.0 Safeguarding Adults

- 5.1 If a complaint is raised by a resident which raises concern that an adult may be at risk of abuse or neglect, we will make a safeguarding referral. This may lead to the safeguarding adults' procedure starting. Under these circumstances, we will not investigate the same concerns in the complaints process. If there are outstanding concerns once the safeguarding enquiry has finished, and if the resident remains dissatisfied, we can consider the best way to progress them at that time.

6.0 Time limit for making a complaint

- 6.1 Complaints should be raised as soon as possible after the event and in most cases within 12 months of finding out about the issue.
- 6.2 There is discretion to extend this time limit where it would be unreasonable for the complaint to have been made earlier, and where it is still possible for us to investigate the facts of the case.
- 6.3 If we do not feel able to investigate a complaint due to the passage of time, and there being limited available evidence to support an investigation, the details provided by the resident will be shared with the relevant service for information purposes.

7.0 Who can make a complaint?

- 7.1 Complaints may be raised by residents who have received, or are receiving, services provided by, or commissioned by, Oldham Council's Adult Social Care service. We can also consider complaints from individuals who have been affected by Adult Social Care services.
- 7.2 Where a complaint is received from a representative, confirmation for the representative to take the complaint forward on the resident's behalf will be sought from the resident. We will usually ask for written consent to be provided so we know that the resident is aware of the complaint and that progressing with the complaint will include accessing their social care records and information from these records will likely be shared with their representative.
- 7.3 We must be satisfied that a representative is acting in the best interest of a resident if the representative wants to complain on behalf of a someone who is unable to provide consent or who has died. If we do not think that a representative is suitable to make a complaint on the resident's behalf, or if appropriate consent is not provided, we will not

consider the complaint further and we will provide this decision in writing to the representative.

- 7.4 In some cases involving Adult Social Care, we can signpost residents to an advocate who can support the resident to make a complaint.

8.0 Anonymous complaints

- 8.1 If a resident does not provide a contact name or address or email address, it will not be possible for a reply to be provided. Where an anonymous complaint is made, this will be brought to the attention of the relevant service for any relevant internal action to be taken.

9.0 Equalities and Diversity and reasonable adjustments

- 9.1 When implementing this policy, we will have regard to the Equalities Act 2010 and show due regard to an individual's medical condition or vulnerability, such as mental health and learning disabilities. Help and support will be provided to residents to overcome any difficulties in pursuing their complaint. Any support or adjustment made will be determined on a case-by-case basis and with the agreement of the resident.

10.0 How can a complaint be made

- 10.1 Many issues can be resolved quickly and successfully by contacting the team or staff member responsible for providing the service. If residents are unsure as to how to contact the team concerned, they can contact Adult Social Care on 0161 770 7777.
- 10.2 Complaints that are resolved to the resident's satisfaction, no later than the next working day after the complaint was made, are not required to be dealt with as a complaint via this policy. However, it is good practice for the issue raised to be recorded for learning and quality improvement purposes.
- 10.3 Should the responsible team be unable to resolve the issue to the resident's satisfaction, the resident is able to contact the Council's Complaints Team. If residents wish to raise a complaint with the Complaints Team, they are asked to do so via the online form at https://www.oldham.gov.uk/info/200143/complaints_and_feedback/630/complaints_or_feedback_about_the_council.
- 10.4 Complaints can also be submitted by post to:

The Complaints Team
Spindles Shopping Centre
West Street
Oldham
OL1 1LF

- 10.5 Although the Complaints Team offers a predominantly digital service, for vulnerable adults, or those without internet access, the team operates a telephone call back service on 0161 770 8122 and aims to return calls within 2 working days.
- 10.6 When raising a complaint, residents are asked to provide any relevant supporting evidence/documentation at the time of making the complaint in order that the issues raised can be fully investigated.
- 10.7 Residents sometimes make contact about Council services on social media, for example, via the Council's Twitter or Facebook accounts. Details of this type of contact will be forwarded to the relevant service by the Communications Team to determine if the contact should be treated as a request for service or handled as a complaint. If the contact should be treated as a complaint, the service will ensure that the Complaints Team is made aware, and the complaint will be handled offline and in keeping with this policy.

11.0 What a resident can expect

- 11.1 Residents can expect to receive a consistently good quality service when they contact any member of staff with a complaint and we will deal with all complaints promptly, respectfully and efficiently.
- 11.2 Where complaints cover multiple issues, we will normally provide residents with a single response.
- 11.3 If a complaint includes multiple issues relating to areas covered by other complaints legislation, for example, Children's Social Care, the Complaints Team will assess whether those issues will need to be managed separately. However, where it is appropriate to do so, a single response will be provided, addressing all issues raised.
- 11.4 Residents can expect to be asked for supporting evidence or additional information where it is felt this is required to complete a robust investigation. Residents will be provided with a timeframe in which to provide the evidence/information. If the requested evidence/information is not provided, and it is deemed as vital to complete an investigation, the complaint may be placed on hold until the Council feels it has sufficient information to enable it to investigate fully.

12.0 Complaint resolution process

- 12.1 We will acknowledge Adult Social Care complaints within 3 working days.
- 12.2 As part of our acknowledgement, we will outline a complaint summary based on our understanding of the issues raised. Residents will be asked to contact the Complaints Team should they feel the summary does not accurately reflect their concerns or desired outcomes. They will also be asked to provide any additional information that may be needed to support the investigation of their complaint.
- 12.3 Once the Complaints Team has sufficient information regarding the complaint to enable an investigation to take place, the complaint will be allocated to the relevant Team Manager, Service Manager or Head of Service from within Adult Social Care.

- 12.4 We will advise the resident of an expected timescale for responding to their complaint. When determining an expected timescale for responding to the complaint, we will consider the complexity of each individual complaint.
- 12.5 Where the issues complained about are not felt to be complex, or require input from third party organisations, we will aim to provide a response within 20 working days of the complaint being acknowledged. For matters which are deemed more complex (for example, where there are multiple points of complaint or services involved) or where input from third party organisations is required, a longer timeframe will be allocated. The timeframe allocated will not exceed 60 working days without good reason.
- 12.6 Where a resident raises additional complaints during the investigation process, these will be incorporated into the complaint response if they are related and the response will not be unduly delayed. Where the complaint response has been issued, the new issues are unrelated to the issues already being investigated or it would unreasonably delay the response, the new issues will be logged as a new complaint.
- 12.7 We hope to be able to satisfactorily resolve residents' complaints at this stage. However, if residents are dissatisfied with the response they receive, they can contact the Complaints Team and request that their complaint is reviewed.
- 12.8 Where a resident asks for their complaint to be reviewed, the review will be undertaken by another manager who will consider whether there are any additional steps that can be taken to resolve the issues at hand.
- 12.9 Upon completion of the review, the resident will receive a final written response.
- 12.10 Alternatively, if the complainant does not wish for their complaint to be reviewed by the Council, they can exercise their right to take their complaint to the Local Government and Social Care Ombudsman (the Ombudsman) at the point of receiving the initial complaint response.
- 12.11 If the resident agrees for the Council to review their complaint in the first instance, this does not affect their right to approach the Ombudsman at the end of the process and to ask them to consider their case if they continue to remain dissatisfied.

13.0 Third Party complaints

- 13.1 Where we receive a complaint relating to work carried out by a third party organisation we have commissioned to provide services on our behalf, such as a care home or care agency, we would expect the resident to contact the service provider in the first instance as it may be an issue which is easily resolved.
- 13.2 If the issue cannot be easily resolved, the resident can either contact the service provider or the Council's Complaints Team to raise a complaint.

- 13.3 Where a complaint is raised with the Council, as opposed to the third party service provider, we will usually ask the provider to complete an investigation and respond to the complaint in the first instance.
- 13.4 Where the third party provider completes an investigation and provides a response to the resident, we will ask that a copy be shared with the Complaints Team and Adult Social Care Commissioning Team in order complaint outcomes can be suitably monitored and follow-up actions taken where required.
- 13.5 In some circumstances, in agreement with the resident and third party provider, a Council officer may investigate complaints received about commissioned providers of social care services.

14 Joint complaints with third party organisations

- 14.1 If we receive a complaint which raises issues involving both the Council and a third party provider, including NHS services and care providers, we will discuss the most appropriate way for the complaint to be considered and responded to. The resident and relevant third party provider will be involved in these discussions.
- 14.2 These cases are often complex, therefore, we want to be clear about this process so that the resident understands how their complaint will be progressed, the timescale for response and who will respond to their concerns.
- 14.3 We will work with the resident, and the other organisations involved, to obtain appropriate consent, this is so that information can be shared between the organisations for the purpose of investigating and responding to the complaint.
- 14.4 We will also liaise with the other organisations to agree who will take the lead on responding to the complaint so that the response is co-ordinated for the resident. If the resident does not want their complaint to be shared with the other organisations, we will write to them with an explanation of the parts of the complaint that we can deal with.

15.0 Remedies

- 15.1 Where something has gone wrong, we will set out the actions we have already taken, or intend to take, to put things right.
- 15.2 Providing a remedy is about putting right what has gone wrong and learning from it.
- 15.3 We do not offer compensation in the way a court would, however, we will always look for ways that we can put issues right.
- 15.4 In some cases, an appropriate remedy may be for us to apologise to the resident for the fault that caused the injustice.

- 15.5 We may look at making a change to our practice, policy, or procedure, if we think it is likely that further mistakes may affect other people in the future.
- 15.6 When deciding on a suitable remedy, we will give due consideration to the Local Government and Social Care Ombudsman's Guidance on Remedies.
- 15.7 The service will agree the proposed remedy before a response is issued to the resident. Where agreement cannot be reached between the Complaints Manager and investigating officer, this will be escalated through the relevant senior line management structure for a final decision.

16.0 The role of the Local Government and Social Care Ombudsman

- 16.1 If a resident is unhappy with the Council's response to the complaint, they can ask for a review by the Local Government and Social Care Ombudsman. This is the final stage for complaints about Adult Social Care.
- 16.2 The Ombudsman can be contacted using the details below:

Online: www.lgo.org.uk/contact-us
Telephone: 0300 061 0614
(please refer to the Ombudsman's website for opening hours)
Post : Local Government and Social Care Ombudsman
PO Box 4771
Coventry
CV4 0EH
(when making a complaint by post, residents should use the relevant postal forms provided by the Ombudsman)

17.0 Monitoring and Performance

- 17.1 We will produce an annual report containing quantitative and qualitative information on:
- the number of complaints received
 - complaint outcomes
 - key themes/trends
 - the number of complaints considered by the Local Government and Social Care Ombudsman
 - any matters of general importance arising out of the complaints received, or the way in which the complaints were handled
- 17.2 A copy of this report will be available on the council's website following review by Overview and Scrutiny Committee.

18.0 Unreasonable behaviour

- 18.1 We treat residents politely and with respect and we expect residents to treat our staff in the same way.

- 18.2 We appreciate that for the most part, residents raise concerns with the Council in a way that is reasonable and respectful. However, should a resident behave in a way that is unreasonable, abusive, deceitful, threatening, or violent, action will be taken under the Council's Unreasonable Behaviour Policy or Violence at Work Policy (whichever is most appropriate to the circumstances).

19 Review of policies

- 19.1 The Council's Adult Social Care Complaints Policy will be published on its website (www.oldham.gov.uk).
- 19.2 This policy will be reviewed annually, or as a change is required. The Cabinet Member for Thriving Communities and Culture and Cabinet Member for Adults, Health and Wellbeing have delegated authority to agree these changes in consultation with Assistant Director of Customer Experience.