

Devon County Council

**Adult and Community Services
Customer Services and Complaints Team**

**Policy for the Management of
Complaints**

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1 Scope

- 1.1 This document provides a policy framework for the management of complaints in the Adult & Community Services (ACS) directorate at Devon County Council.
- 1.2 The policy applies to functions undertaken by the ACS directorate, and the services that are provided directly, or commissioned, to enable those functions to be undertaken.
- 1.3 The policy provides a consistent approach across the directorate for the management of complaints and is supplemented by further operating procedures and guidance that are included as appendices to this policy.
- 1.4 Whilst also outlining the management of other forms of feedback, this policy primarily gives a framework for the management of complaints as this function is a statutory requirement of Devon County Council governed by Law.

2 Legal Context

- 2.1 This policy gives a framework for the implementation of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 by Devon County Council.
- 2.2 These Regulations will be referred to as “the Regulations” throughout this policy document.
- 2.3 The Regulations are accompanied by the Department of Health’s publications “A guide to better customer care” and “Listening, Responding and Improving”, both of which support the statutory requirements for the handling and consideration of complaints.
- 2.4 These guides outline the Regulations intention to allow Health and Social Care organisations more flexibility to respond to complaints and to encourage a culture that uses people’s experiences of care to improve the service provided.
- 2.5 Under the Regulations there is a single approach for dealing with complaints about NHS and Adult Social Care Services.
- 2.6 Legislation covering the management of complaints by other organisations, or where applicable other organisations that fall the under the Regulations, will be covered at the appropriate paragraphs (19, 20, and 21) in the policy.

3 Definition of a Complaint

- 3.1 A Complaint can be generally defined as “**an expression of dissatisfaction or disquiet about actions, decisions or apparent failings of a local authority’s adult social services provision which requires a response**”. The Directorate will use this as a working guide rather than a rigid definition to allow for the flexibility of dealing with complaints as set out in the Regulations.

- 3.2 Feedback may not always be a complaint; it may be in the form of an enquiry or comment about the services or functions of ACS which is not a criticism and referred to as a Representation (see Representations – section 31).

4 Key Roles and Responsibilities

- 4.1 The **responsible body** in the case of a local authority, as per the Regulations, is the person who acts as the chief executive officer.
- 4.2 The **complaints manager** is the person designated in accordance with the Regulations. The complaints manager is responsible for managing the procedures for handling and considering complaints in accordance with the arrangements made under the Regulations.
- 4.3 The **Customer Services and Complaints Team** (Officers and administration staff) under the line management of the complaints manager they; record, acknowledge and coordinate the investigation and response to complaints in line with the Regulations.
- 4.4 The person raising a complaint is the **complainant**; a person able to raise a complaint under the Regulations is covered in section 5.
- 4.5 A **representative** is a person making a complaint on behalf of someone else under the Regulations (Who can make a complaint - point 5.4).
- 4.6 A person raising a complaint may also make the use of an **advocate**, as covered in Advocacy - section 9.
- 4.7 If agreed with the complainant, an **independent investigator** may be commissioned to undertake the complaint investigation independently of ACS and Devon County Council.
- 4.8 The **appointed investigating officer** is the member of staff, or as above an independent person, investigating a complaint as agreed with the complainant. The appointed investigating officer may also be the designated responder who signs off the complaint response; see below.
- 4.9 An agreement also needs to be made with the complainant regarding who will be the **designated responder** i.e. the member of staff who will be signing off the complaint response letter. The complaints management process (attached as appendix A) outlines the appropriate level for sign off for each type of complaint.
- 4.10 The **Ombudsman Link Officer** is the member of staff who acts as a link between the Authority and the Local Government Ombudsman (LGO); see section 15 for details of the LGO.

5 Who can make a complaint?

- 5.1 The Regulations state that:
- 5.2 A complaint may be made by a person who receives or has received services from Devon County Council Adult and Community Services or a person who is

affected, or likely to be affected, by the action, omission or decision of Devon County Council Adult and Community Services.

- 5.3 A complaint may be made by a person acting on behalf of a person who has died, or is unable to make the complaint themselves due to physical incapacity, or has a lack of mental capacity (within the meaning of the Mental Capacity Act 2005). They may also have requested that the representative act on their behalf.
- 5.4 Where a representative is making a complaint on behalf of a person who lacks capacity, Devon County Council must be satisfied that the representative is acting in the best interests of the person on whose behalf the complaint is made. If the representative is not deemed to be acting in the person's best interests, then the Regulations state that the complaint cannot be considered.
- 5.5 Where a representative is making a complaint on behalf of person who is not known to lack mental capacity, signed consent will be requested from the service user giving permission for the representative to act on their behalf.
- 5.6 If the Authority is satisfied that the representative is not conducting the complaint in the best interests of the person on whose behalf the complaint is made then they will notify the representative in writing of their intention not to consider the complaint further, and state the reason for its decision.

6 What can be complained about?

- 6.1 A complaint can be made about the social services functions undertaken by Devon County Council, any function discharged or to be discharged under arrangements made between Devon County Council and an NHS body under section 75 of the National Health Service Act 2006 in relation to the functions of an NHS body.
- 6.2 A complaint can also be made where Devon County Council has arranged/commissioned a person or organisation for the discharge of a relevant function, or the discharge or failure to discharge a relevant function under those arrangements.
- 6.3 Paragraph 6.2 refers to independent providers of adult social care commissioned by Devon County Council; for complaints about services provided by an independent provider not commissioned by Devon County Council see Direct Payments, Personalised Budgets & Self Funders – section 21.
- 6.4 A complaint can also be about how a person is affected, or likely to be affected, by the action, omission or decision of Devon County Council ACS; even if they are not in direct receipt of services from, or commissioned, by ACS.

7 Exclusions

- 7.1 The following will not be considered under the complaints policy, as outlined by the Regulations:
 - 7.1.1 Any complaint by another responsible body.
 - 7.1.2 Any complaint by a Devon County Council employee relating to their employment.

- 7.1.3 Any complaint the subject matter of which has previously been investigated under any previous complaint Regulations.
- 7.1.4 Any complaint where the subject matter is being or has been investigated by the Local Government Ombudsman.
- 7.1.5 Any complaint arising out of the alleged failure of Devon County Council to comply with a request for information under the Freedom of Information Act 2000.
- 7.1.6 Any complaint must be made not later than 12 months after either the date on which the matter which is the subject of the complaint occurred; or if later, the date on which the matter which is the subject of the complaint came to the notice of the complainant or it will not be considered.
- 7.1.7 The time limit in paragraph 7.1.6 shall not apply if the responsible body is satisfied that the complainant had good reasons for not making the complaint within that time limit; and notwithstanding the delay, it is still possible to investigate the complaint effectively and fairly.
- 7.1.8 The Regulations state that any complaints made orally, addressed and resolved at local level within 24 hours of the issue being raised fall under the category 'Complaints not required to be dealt with'; however under this policy these complaints are recorded and reported on and categorised as option 'A' complaints – see the complaints management process for further details.
- 7.2 If a complaint falls under any of the above exclusions Devon County Council will, as soon as reasonably practicable, notify the complainant in writing of its decision and the reason for the decision.

8 Anonymous Complaints

- 8.1 Anonymous complaints fall outside the scope of the Regulations and therefore this policy, however all anonymous complaints received are logged and reported on (see Monitoring and Reporting - section 26).
- 8.2 The Complaints Manager will consider what action should be taken on receipt of an anonymous complaint, in addition to it being logged; this action will include it being passed onto the relevant manager within the service area.
- 8.3 The fact that a complaint is from an anonymous source will not in itself justify a decision not to pursue the matter nor will it rule out a referral to other procedures as appropriate.
- 8.4 If a complaint is received anonymously via another organisation, for example the Care Quality Commission (see section 31), then a response will be sent to that organisation.

9 Advocacy

- 9.1 Advocacy can be defined as 'when someone supports you to speak up, or speaks on your behalf to help you get what you are entitled to.'

- 9.2 A complaint can be made by someone else who has been requested by the representative to act on their behalf; they would be the complainant's 'advocate'.
- 9.3 An advocate should be free from conflicts of interest with those providing services to the person they are working with and should represent the other person's interests as if they were the advocate's own.
- 9.4 Advocacy is not an alternative to the complaints procedure but can involve the advocate in supporting the person in making a complaint effectively.
- 9.5 The Customer Services and Complaints Team are able to direct members of the public wishing to access the complaints procedure to advocacy services.

10 Acknowledgement

- 10.1 The Regulations state that a complaint must be acknowledged within 3 working days of receipt by the Council, ideally by the team receiving the complaint.
- 10.2 Should the team receiving the complaint not acknowledge it, this will be undertaken by the Customer Services Team on receipt.
- 10.3 Complaints will be acknowledged in a manner appropriate to the complaint received.

11 Mediation

- 11.1 For some complaints it will not be appropriate or possible to bring about a satisfactory resolution by the usual process of investigation and adjudication. For example where there has been a breakdown in the relationship between the service and the service user, where emotions are running high, or where a complaint is solely about something said in a conversation and there is no record of it or witnesses and reaching a robust conclusion is unlikely.
- 11.2 In such circumstances the use of mediation may be a useful means of achieving resolution and it is an option that will be considered. Mediation is not possible without the agreement of all those concerned. Neither staff members nor complainants who do not wish to engage in a mediation process will be coerced into doing so.
- 11.3 Where mediation is the preferred option of all concerned, a member of the Customer Services Team or an Operational Manager will make the necessary arrangements. This agreement will be reflected in the Complaint Resolution Plan (see section 13). The mediator will be independent of both parties, i.e. they will not have any line management responsibility to, or for, a staff member about whom a complaint has been made, nor will they be a representative of the complainant.
- 11.4 Mediation does not provide a guarantee that the problem will be resolved and it may not bring about a judgement as to whether the complaint is upheld or not upheld; however, it can be possible to agree changes in practice or procedures as part of a mediation agreement.

12 Triage and Risk Assessment

- 12.1 On receipt of a complaint the Customer Services and Complaints Team will complete a triage and risk assessment, as per the complaints management process.
- 12.2 This is undertaken in order to understand the impact of the complaint on the individuals involved and the organisation; the resulting risk assessment outcome given to the complaint (Low, Medium or High) is taken into consideration when proposing a Complaint Resolution Plan (CRP – see section 13).
- 12.3 Any complaints with a ‘High’ risk assessment outcome, and therefore where significant risk has been identified, will be escalated for rapid action. Serious issues that may cause long-term damage, such as grossly sub standard care, professional misconduct or death will require immediate and in-depth investigate or a referral to the Safeguarding Team (see section 23).
- 12.4 At the resolution of the complaint a risk assessment is again undertaken and the outcomes are recorded.
- 12.5 Below is the risk assessment tool used to grade each complaint:

Level of Seriousness	
1	Low – Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care
2	Medium – Service or experience below reasonable expectations, but not causing lasting care related problems. May impact upon service provision.
4	High – Significant issues regarding standards or quality of care, possible safeguarding implications. May have lasting impact upon care. Possible reputational damage
10	Extreme - Serious re long term damage or grossly substandard care. Likely safeguarding implications or requiring immediate in depth investigation. Strong possibility of reputational damage

Likelihood of re-occurrence	
1	Rare – Isolated or one off issue
2	Unlikely - Unusual but may have happened before or will again.
3	Possible – Happens occasionally
4	Likely – Will probably occur several times over a period of time
5	Almost certain – Recurring and frequent, predictable

Seriousness	Likelihood of re-occurrence				
	1	2	3	4	5
1	1	2	3	4	5
2	2	4	6	8	10
4	4	8	12	16	20
10	10	20	30	40	50

Total	1-3	4-9	10-50
Level of Risk	Low	Medium	High

13 Complaint Resolution Plan

- 13.1 The Regulations state that we must offer to discuss with the complainant, at a time to be agreed with them: the manner in which the complaint is to be handled,

the amount of time the investigation will take and when the response is likely to be sent to the complainant.

- 13.2 The manner in which the complaint is to be handled is determined by the risk assessment outcome, the complaints management process, and initial discussions with the relevant service manager and the complainant.
- 13.3 The agreement reached on the manner in which the complaint is to be handled is referred to as the Complaint Resolution Plan and this will include: an agreement on the complaint issues, who will be investigating the complaint, who will be responding to the complaint, the timescale for response, and what the desired outcome of the complaint is. The Complaint Resolution Plan is sent to the complainant(s) in writing (please see appendix B - Complaints Resolution Plan (CRP) letter template).
- 13.4 To indicate the agreement of the complainant, as per the Regulations, we will send two copies of the CRP letter and request that they sign and return one copy.
- 13.5 The Regulations state that if the complainant does not accept the offer of a discussion to agree the manner in which the complaint will be handled and subsequently a CRP, then we must determine the response period and notify the complainant in writing of that period. If we are either unable to reach the complainant or unable to agree the manner in which to resolve the complaint we will therefore send a proposed rather than agreed CRP.

14 Investigation & Response

- 14.1 The Regulations state that as the responsible body to which a complaint is made we must investigate the complaint in a manner appropriate to resolve it speedily and efficiently. The appropriate manner is determined by the risk assessment outcome and with reference to the complaints management process.
- 14.2 The Regulations do not prescribe types of investigations to resolve complaints speedily and efficiently; however to give direction to the investigation the Devon County Council ACS complaints management process gives five alternative methods (A to E) of investigation:
 - 14.2.1 “A” is local resolution within 24 hours which requires little or no investigation with no outstanding actions.
 - 14.2.2 “B” is for more complex complaints which require some investigation at a local level from within the service area the complaint is regarding, with some actions identified.
 - 14.2.3 “C” can also be investigated from within the service area the complaint is regarding, but is more complex and therefore requires the investigation to be undertaken by the manager of the service.
 - 14.2.4 “D” requires an investigation by somebody independent of the service area the complaint is regarding, but can be completed by a manager from an alternative service within the organisation as long as they are independent of the service being complained about.
 - 14.2.5 “E” requires an external investigation independent of the organisation.
- 14.3 The Regulations state that as well as agreeing the manner in which the complaint will be handled during the investigation, we must keep the complainant informed, as far as reasonably practicable, as to the progress of the investigation. As such,

any changes to the agreed CRP will be communicated to the complainant in writing with an explanation for these changes as appropriate.

- 14.4 As well as not prescribing an exact method for investigation, the Regulations do not prescribe a timescale for the investigation other than stating that it is within a “relevant period”. The Regulations describe a “relevant period” as “the period of 6 months commencing on the day on which the complaint was received, or such longer period as may be agreed before the expiry of that period by the complainant and the responsible body.”
- 14.5 If the 6 month period, or such period that has been agreed before the expiry of 6 months, is breached we will, in line with the Regulations, notify the complainant in writing and explain the reason why the investigation has taken longer.
- 14.6 The Regulations state that as soon as reasonably practicable after completing the investigation we must send a response to the complainant in writing, signed by the responsible person. The response will be sent within the timeframe agreed in the CRP, or within the agreed extended timeframe if there is any delay, and signed off by the responsible person agreed in the CRP.
- 14.7 For each method of investigation identified in the complaints management process there is a guided response time which is determined by the complexity of the complaint:
 - 14.7.1 A – within 24 hours
 - 14.7.2 B – within 2-10 working days
 - 14.7.3 C – within 10-20 working days
 - 14.7.4 D – Between 1 and 3 months
 - 14.7.5 E – Between 3 and 6 months
- 14.8 The Regulations specify what information needs to be contained in the response letter and as such the response will include; an explanation of how the complaint has been considered, the conclusions reached in relation to the complaint, including any matters for which the complaint specifies, or we consider, that remedial action is needed; and confirmation as to whether we are satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken. For further information on Actions and Learning from Complaints see section 17.
- 14.9 To record the outcome of the complaint, any remedial action required, and any wider learning, the designated investigating officer is required to complete a Complaints Monitoring Form (CMF) on conclusion of the investigation – see appendix C.
- 14.10 The final information that the Regulations state needs to be contained in the response letter is details of the complainant’s right to take their complaint to the Local Government Ombudsman; see section 15 for more information. We will also always give the complainant an opportunity to discuss the issues further if they wish.

15 Local Government Ombudsman

- 15.1 The Local Government Ombudsman (LGO) looks at complaints about councils and some other authorities and organisations, including education admissions appeal panels and adult social care providers. It is a free service and they investigate complaints in a fair way, and make decisions independently of all government departments, councils and politicians.
- 15.2 The LGO have the same powers as the High Court to obtain information and documents. Their decisions are final and cannot be appealed; however, they can be challenged in the High Court if their reasoning has a legal flaw.
- 15.3 The LGO do not have to investigate every complaint received, even if they have the power to do so. They may decide not to investigate if they think the complaint raised would have minimal effect on the complainant.
- 15.4 At the time of response we will explain to the complainant about their right to take their complaint to the LGO.
- 15.5 The Council must be given an opportunity to resolve a complaint before the LGO can consider it and the complaint must have been through all stages of the local complaints procedure.
- 15.6 If the LGO are approached with a complaint, they will refer the concerns to Devon County Council to enquire if the complaint has been through our complaints procedure. If it has not been through our complaints procedure they will give us an opportunity to investigate and respond to the complaint and request a copy of the response when completed.
- 15.7 The LGO are fully independent of the Care Quality Commission (CQC) - see section 30. The LGO deal with individual injustices that people have suffered and CQC will refer all such complaints to them. The LGO can share information with CQC but only when they feel it is appropriate.
- 15.8 The Local Government Ombudsman also has the power to consider complaints from people who arrange and fund their own Adult Social Care. This is in addition to the existing powers to investigate complaints about care arranged and funded by Local Authorities; see Direct Payments, Personalised Budgets & Self Funders - section 21.
- 15.9 Where a complaint is taken on by the LGO and it is upheld, and a remedy required, recommendations will be made to Devon County Council via a statement and a copy sent to the CQC. Although the LGO cannot make a Local Authority take on the recommendations made, Devon County Council will almost always be willing to act upon them.
- 15.10 If a complaint received by the LGO raises any safeguarding concerns these will be passed on to the appropriate Local Authority. If a safeguarding issue arises they will take a decision whether to suspend or continue with their complaint investigation.

16 Redress

- 16.1 Redress is setting right what went wrong. The general principle is that, wherever possible and practicable, someone detrimentally affected when something has

gone wrong should be returned to the position they would have been in if the failure had not occurred.

- 16.2 The Regulations state that when dealing with complaints Devon County Council must ensure that action is taken, if necessary, in the light of the outcome of a complaint.
- 16.3 At the beginning of the complaints procedure, as part of the CRP, we will ask the complainant what their desired outcomes are and as per the Regulations if the complaint is upheld or partially upheld this will be taken into account when responding to the complaint.
- 16.4 From the outset the complainants will be given realistic expectations of what the complaints procedure can achieve.
- 16.5 Redress will only be proportional to the degree and nature of the failure and hardship or injustice suffered.
- 16.6 Redress may be limited by: the time elapsed since the complaint occurred, the degree to which the complainant had a contributory responsibility for the failure, any detriment suffered by the complainant, or the capability of Devon County Council to meet the desired outcome.
- 16.7 Demonstrable loss or costs will be taken into account when calculating any redress.
- 16.8 Although redress is often thought of in financial terms (where possible, reimbursement of actual loss and/or costs incurred), there may be alternative ways in which Devon County Council can attempt to set right what went wrong; for example an apology, an explanation or practical action to mitigate any detriment.
- 16.9 Under the Devon County Council ACS complaints procedure we record all redress as actions as a result of the complaint; see section 17 below for further information.

17 Actions and Learning from Complaints

- 17.1 The Regulations specify that the response letter to the complaint must include any matters for which the complaint specifies, or we consider, that remedial action is needed, and confirmation as to whether we are satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken.
- 17.2 As detailed above, the Regulations also state that when dealing with complaints Devon County Council must ensure that action is taken, if necessary, in the light of the outcome of a complaint.
- 17.3 The Customer Services Team monitor the implementation of actions as the result of complaints, and data on actions undertaken is included within the quarterly report produced for Senior Management (see Monitoring and Reporting – section 26).

18 Working with Other Procedures

- 18.1 The Complaints Procedure may be suspended if any concurrent investigations might be compromised or prejudiced by continuing with it, for example:
 - 18.1.1 Disciplinary and Grievance Procedures;
 - 18.1.2 Harassment Procedures
 - 18.1.3 Police Investigation
 - 18.1.4 Safeguarding
- 18.2 Careful consideration will be given to the possibility of investigating matters that are associated with or would prejudice any related investigation. Once the related investigation is discontinued or completed, consideration will be given to starting or resuming the complaints investigation.

19 Cross Agency Complaints

- 19.1 The Regulations make it a duty for organisations to cooperate with each other in dealing with eligible complaints. If a complaint is received by an organisation, e.g. Devon County Council, who consider aspects of the complaint are also relevant to another organisation e.g. NHS Devon, and elements of the complaint fall under their Regulations, then the two organisations must cooperate by coordinating the handling of the complaint, and ensuring, wherever possible, that the complainant receives a coordinated response to the complaint.
- 19.2 The duty to cooperate also includes one of the organisations agreeing to take the lead in coordinating the handling of the complaint and communicating with the complainant.
- 19.3 Each organisation will provide to each other relevant information to assist in the consideration of the complaint. The request should take account of the issues of consent. Each organisation will agree to attend, or ensure it is represented, at any meeting reasonably required in connection with the consideration of the complaint.
- 19.4 Final investigation reports and response letters should be shared as appropriate with cooperating organisations, although this may require the need to share only those extracts of the report/letter that are relevant to the particular organisation/external provider. The sharing of the full report/letter will need careful consideration. Any investigation documents shared outside of the Devon County Council ICT network will be securely protected (see Data Protection and Confidentiality - section 24).

20 Commissioned Services & Independent Providers

- 20.1 As of 1st October 2010 Independent Providers of Adult Social Care no longer respond to complaints under the Care Standards Act; they join Independent Providers of Health Care, NHS organisations and Local Authority Adult Social Care in being included within the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- 20.2 The key element of importance within this for ACS as Commissioners of Adult Social Care from such providers is that we need to ensure that:

- 20.2.1 All providers from whom we commission a service have a robust complaints policy and procedure;
- 20.2.2 That all citizens have access to these policies and procedures;
- 20.2.3 That we monitor the complaints providers receive, the way in which they respond to them and that learning arising from such complaints is taken on board.
- 20.3 Where we have commissioned a service on a person's behalf, they have the right to either complain to the service provider or to us as the commissioner.
- 20.4 It is our duty to investigate and respond to these complaints if the person wants us to or if they agree, we can ask the provider to investigate and respond. If the provider investigates, we, as the commissioner, need to see a copy of the response and monitor that any identified actions arising from the complaint are undertaken.
- 20.5 If care is provided by an independent provider e.g. a care agency or private residential home, a complaint can be made to Adult and Community Services if we have commissioned the service involved. When the complaint is received, we will agree a way forward with the complainant, which may include a member of the Customer Services Team or the manager responsible for commissioning the service contacting the agency on behalf of the complainant to ask them to look into the concerns raised. We would expect the service involved to take the concerns seriously and provide a response to the complainant, detailing any action they intend to take to ensure improvements are made.

21 Direct Payments, Personalised Budgets & Self Funders

- 21.1 From October 2010 the Local Government Ombudsman has the power to consider complaints from people who arrange and fund their own Adult Social Care. This is in addition to the existing powers to investigate complaints about care arranged and funded by Local Authorities.
- 21.2 This new role includes both those who "self fund" their care from their own resources and those who receive a personalised budget or Direct Payment.
- 21.3 Complaints referred to Adult and Community Services about any aspect of a Direct Payment (an assessment of need or if a Direct Payment has been denied, for example) will be considered in line with the Complaints Procedure and therefore this Policy.
- 21.4 Complaints about services independently purchased should be addressed directly with the service provider or employee in the first instance; alternatively, a complaint can be made to the Local Government Ombudsman.

22 Acceptable Behaviour

- 22.1 All employees of Devon County Council are expected to work within the Acceptable Behaviour Policy; see Supporting Policies and Regulations – section 35.

- 22.2 In summary, this policy states that any unacceptable employee behaviour directed towards another, including harassment based on age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race (colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation is unlawful and will not be tolerated in any form by this organisation. Action may be taken under the Conduct Policy.
- 22.3 Devon County Council is committed to providing excellent customer service, however there are times when complainants can act in a way we consider unacceptable.
- 22.4 In these circumstances, the Complaints Manager will consider invoking the Unacceptable Customer Behaviour Policy (see Supporting Polices and Regulations – section 35) and/or the Unreasonably Persistent Complainants Procedure (attached as appendix D).

23 Safeguarding Vulnerable Adults

- 23.1 Where a complaint or subsequent risk assessment highlights concerns regarding the safeguarding of vulnerable adults, then the matter must be referred to the Safeguarding Adults Team for consideration and investigation under the Safeguarding Adults Policy and Guidance (see Supporting Policies and Regulations – section 35).
- 23.2 The Customer Services Team will liaise with the Safeguarding Adults Team in these circumstances as it may be possible for the complaint investigation to continue whilst these procedures are running. If it is considered that a complaint investigation may prejudice a Safeguarding investigation, the complaint investigation will be suspended.
- 23.3 Once the Safeguarding investigation is discontinued or completed, consideration will be given to starting or resuming the complaints investigation.

24 Data Protection & Confidentiality

- 24.1 The Customer Services Team work in line with the Devon County Council Data Protection Policy, and as such ensure that confidential complaint records are stored securely and shared appropriately.
- 24.2 For more information on Data Protection, please see Supporting Policies and Regulations – section 35.

25 Record Retention

- 25.1 The Customer Services Team store complaint files in line with the Devon County Council Record Handling, Management and Retention Policy, which states that complaint records should be retained for 5 years after closure; see Supporting Policies and Regulations – section 35.

26 Monitoring and Reporting

- 26.1 The Customer Services Team will ensure that records are kept for each complaint received, including: the service area complained about, the issues raised within the complaint, the outcome of the complaint, actions to be undertaken as a result of the complaint, and relevant statistical information e.g. timescales for acknowledgement and response.
- 26.2 A formal process for monitoring investigations is in place to meet our statutory requirements. Reminders are issued to officers responsible for investigating and responding to complaints to remind them of the need to meet agreed timescales.
- 26.3 Response times to complaints are recorded, monitored and reported within Quarterly/Annual Reports to appropriate officers. Information to identify those complaints which do not meet response target times are reported along with those that do. This data is used to benchmark against previous years/service areas.
- 26.4 The Customer Services and Complaints Manager will report on all activity in relation to Compliments, MP Letters, Representations and Complaints to the Strategic Leadership Team on a quarterly basis. This report highlights the main areas of concern, and action required for improvement and learning, to ensure relevant information is disseminated appropriately throughout Adult and Community Services.
- 26.5 The Annual Report will include a full breakdown of information in relation to learning outcomes from complaints, along with a summary of learning and service improvement, and a review of the operation of the complaints procedure. The Annual Report will include the following data, as specified by the Regulations:
 - 26.5.1 Number of complaints and response times,
 - 26.5.2 Type of complaints and services complained about,
 - 26.5.3 Outcomes of complaints and service improvements resulting from them,
 - 26.5.4 How complaints were dealt with and complainant feedback summary,
 - 26.5.5 Number of complaints referred to the LGO.
- 26.6 The quarterly and annual reports are available to the public via the Customer Services and Complaints Team web pages (www.devon.gov.uk/documentsandreports), and older copies are available on request.

27 Publicity

- 27.1 The Regulations state that we must make information available to public as to our arrangements for dealing with complaints and how further information about those arrangements may be obtained.
- 27.2 A leaflet summarising the complaint arrangements, including a feedback form, is available in all publicly accessible Adult and Community Services locations, and is also available on request from the Customer Services and Complaints Team. The complaints leaflet is available in various formats, tailored to meet the needs of those with learning disabilities and sensory impairments, and those for whom English is not their first language.

- 27.3 A detailed complaints procedure is also available on request – attached as appendix E.
- 27.4 The Customer Services and Complaints Team publicise information regarding our complaint arrangements on our public web pages (www.devon.gov.uk/customerservicesfeedback).

28 Diversity

- 28.1 The Customer Services and Complaints Team monitors anonymous diversity data from complainants to see if our procedures are potentially discriminating or providing fair access to all. Diversity monitoring and analysis provides us with an opportunity to identify groups of people, based on broad headings, that may not have accessed the complaints procedure yet, and possible reasons for that.
- 28.2 The methods used for monitoring diversity information are via one of the following:
- 28.2.1 Direct questioning during the acknowledgement telephone call,
 - 28.2.2 A printed survey enclosed with the CRP letter (attached as appendix F), or
 - 28.2.3 Via a web link to the survey.
- 28.3 Once a request has been made for the complainant to answer the diversity monitoring questions (whether they choose to answer or not), no further requests will be made.
- 28.4 The headings we monitor under are:
- 28.4.1 Gender,
 - 28.4.2 Age range,
 - 28.4.3 Disability,
 - 28.4.4 Ethnicity,
 - 28.4.5 Sexual Orientation.
- 28.5 Complainants are not obliged to respond to our diversity monitoring questions, and the printed/web surveys provide the opportunity the respondents to decline to answer any or all of the questions. All data collected is stored anonymously and separately from complaint files. The data collected will be analysed and reported on within our annual reports.

29 Satisfaction Survey

- 29.1 At Devon County Council we want to ensure that the Statutory Complaints Procedure for Social Care is fair, effective and easy to understand. The Customer Services Team will enclose a satisfaction survey and freepost envelope with all complaint responses, which will enable the complainant to tell us, anonymously and in confidence, what they think of the complaints procedure, should they choose to do so. Any responses received will help us to evaluate our complaints process to make any changes required to improve it. Alternatively, the survey can be completed online, should this be the preferred response method of the complainant.
- 29.2 When conducting surveys we adhere to the Social Services Research Group code of conduct; as such we will:

- 29.2.1 Treat complainants with respect;
- 29.2.2 Treat answers to our questionnaire in confidence;
- 29.2.3 Ensure that questionnaire responses in no way affects the services received by the complainant, or any services they may be eligible for in the future;
- 29.2.4 Send complainants a copy of the Social Services Research Group code of good practice should they request it;
- 29.2.5 Tell complainants where we will publish the results of the survey;
- 29.2.6 Provide complainants with a questionnaire in their preferred language or format (such as large print or Braille) if requested.

29.3 The analysis of results from our satisfaction survey can be found in our Annual Report.

29.4 A copy of our satisfaction survey is attached as appendix G.

30 Care Quality Commission

30.1 The Care Quality Commission (CQC) regulates health and adult social care services in England, whether they are provided by the NHS, local authorities, private companies or voluntary organisations. They also protect the rights of people detained under the Mental Health Act. The CQC makes sure that essential common quality standards are being met where care is provided and work towards the improvement of care services. They promote the rights and interests of people who use services and they have a wide range of enforcement powers to take action if services are unacceptably poor; however, the CQC do not act as a complaints investigation agency, and do not have the statutory authority to undertake such a task.

30.2 The CQC will redirect individual complaints to the Local Government Ombudsman (LGO), and the LGO will inform the CQC about outcomes that point at regulatory failures.

31 Representations

31.1 A Representation is a comment from a member of the public (to include but not limited to service users and their representatives) about Adult and Community Services that requires an official response.

31.2 Representations are not governed by the Regulations; they are managed within the Customer Services and Complaints Representations Procedure (attached as appendix H), which outlines that all Representations should be responded to by an appropriate manager within 20 working days.

31.3 The Customer Services and Complaints Team monitor responses to Representations, and report on related performance data within our quarterly reports.

32 MP Letters

32.1 MPs may also be asked by their constituents to contact Devon County Council on their behalf. Any contact made by MPs in relation to Adult and Community Services is deemed to be a Representation, and as such will be managed by the

Customer Services Team, and dealt with in line with the Representations Procedure outlined above.

33 Compliments

- 33.1 The Customer Services and Complaints Team log all compliments received from Service Users or their representatives regarding Adult and Community Services staff. Compliment data is reported within our Quarterly and Annual Reports.

34 Training

- 34.1 Devon County Council understands the importance of staff training and development to ensure it delivers effective complaints handling. The Customer Services and Complaints Team will deliver an ongoing and countywide programme of complaints training for staff, and also provide appropriate support and training to individual departments and teams on request.

35 Supporting Policies and Regulations

- 35.1 [The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009.](#)
- 35.2 Devon County Council Supporting Policies:
- 35.2.1 Acceptable Behaviour Policy (not available publicly)
 - 35.2.2 Unacceptable Customer Behaviour Policy (not available publicly)
 - 35.2.3 [Safeguarding Adults Policy and Guidance](#)
 - 35.2.4 [Data Protection Policy](#)
 - 35.2.5 [Record Handling, Management and Retention Policy](#)

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