

Report of the Director of Adults and Health

Report to the Adults, Health and Active Lifestyles Scrutiny Board

Date: 5 January 2021

Subject: Compliments and Complaints Annual Report 2019-2020

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- The compliments and complaints annual report 2019-2020 (copy attached as appendix 1) provides information about compliments and complaints received during the twelve months between 1st April 2019 and 31st March 2020. The report talks about the work of the Complaints Team and about the extent to which services are meeting customers' expectations and describes the actions being taken to improve the quality of health and social care services in response to customer feedback. As the reporting year came to a close in March 2020, the Council and care providers faced exceptional operational challenges because of COVID-19. This report, however, largely relates to the period prior to COVID-19. The full impact of COVID-19 on care users will be in the 2020-2021 financial year report.
- The report also talks about updates and priorities for 2019-20. It provides an update on national developments relating to Health and Social Care Complaints Procedures such as key messages from Healthwatch England and the Local Government and Social Care Ombudsman.
- 651 service users and/or their families were unhappy with the service they received compared with 520 in the previous year, representing a 25% increase. The

increase is positive as our ongoing strategy is to encourage more people to talk to us so that we can understand their experiences to help inform delivery of responsive quality services.

- The Complaints Team continues to work with service teams, the quality team, contract and commissioning officers and commissioned provider staff in order to share intelligence and also to ensure that compliments and complaints information is shared with the complaints team. In addition to ensuring that the information is included in any reporting, complaints are a valuable source of intelligence to help inform commissioning activities and service improvements.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- The statutory complaints procedure requires that staff are clear of their role in identifying mistakes, putting them right and learning from them as quickly as possible. In view of this, complaints training is provided to frontline staff and managers. This contributes to the Best Council Plan by meeting the ambition of Leeds Council being efficient and meeting this by ensuring that staff are effective and have the right knowledge and skills when it comes to resolution of complaints.
- In addition, the number of compliments and complaints received involving service users and carers of Adults and Health, commissioned providers and health partners have provided opportunities to promote partnership working with all key stakeholders. The compliments received also demonstrates how the Adults and Health Directorate is meeting the city priorities.

3. Resource Implications

- Under Section 92 of the Local Government Act 2000, Local Authorities are empowered to remedy any injustice arising from a complaint. It is now practice to consider small ex gratia payments by way of recompense for costs incurred or compensation for a distress caused as a result of a matter complained about. In some cases it may be appropriate to waive care fees. The Local Government and Social Care Ombudsman also has powers to direct the authority to pay compensation and to recommend the amount. As noted at paragraph 13 of the main report, £3,000 was paid as a result of Ombudsman investigations.
- Payments were also offered as a result of internal complaints investigations. Including payments made as a result of Ombudsman investigations, the Adults & Health Directorate provided financial remedies totalling £46,000.83 this reporting year. This compares with £150,598.85 in the previous year.

The payments and/or waiving of fees fall into three main categories, as follows:-

Payments or Waivers made in recognition of fault / poor quality, or delay in the provision of services.

In total £13,587.41 was paid (or care fees waived) for this reason. Individual payments are usually modest and can reflect the reimbursing of care fees were isolated incidents have occurred, or a payment in recognition of distress, anxiety and inconvenience caused as a result of failings. Larger payments can be made where a problem has persisted for a long period of time.

Fees repaid due to people being incorrectly charged totalled £25,970.07 paid to customers for this reason, comprising:

Where the service user had been charged for services that were either not provided (e.g. a home care provider had not turned up or stayed for the full duration) or were not required (e.g. where the service user had cancelled the service). This totalled £2,422.76

Where service users or their representatives had not been given adequate information about their contribution to the cost of their care. These payments are often substantial as they reflect the fact that the service user has received a backdated invoice for care fees which they were not expecting. This totalled £23,547.31

In some cases service users had overspent their personal budgets when their needs changed, but had not informed their social worker.

In these cases it was recognised that service users had got into genuine difficulty, so any debt they had accrued was written off and their care plan was reviewed. This totalled £6,443.35.

Recommendations

That the Scrutiny Board considers the details presented in this report and determines any further scrutiny activity and/or actions.

1. Purpose of this report

- 1.1 The purpose of the compliments and complaints annual report is to review the operation of the complaints procedure over a twelve month period and to provide information about complaints themes, the compliments received and actions being taken to improve the quality of health and social care services.
- 1.2 This report provides information about compliments and complaints received during the twelve months between 1 April 2019 and 31 March 2020. As the reporting year came to a close in March 2020, the Council and care providers faced exceptional operational challenges because of COVID-19. This report, however, largely relates to the period prior to COVID-19. The full impact of COVID-19 on care users will be in the 2020-2021 financial year report.

2. Background information

- 2.1 Local Authorities and the National Health Service are legally required to establish complaints procedures to deal with complaints about their health and social care functions.
- 2.2 The Local Authority Social Services and National Health Service Complaints (England) regulations 2009 applies to Adult Social Care. Similarly the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 applies to Public Health.

3. Main issues

- 3.1 As previously mentioned, as the reporting year came to a close in March 2020, the Council and care providers faced exceptional operational challenges because of COVID-19. Prior to COVID-19 the Council did face financial challenges and enormous amount of pressures that necessitated tough decisions to deliver care services.

Despite this, as highlighted in the main report, the Ombudsman has made it clear that when it comes to service delivery, no concessions will be made for the said financial pressures. In addition the Ombudsman continue to reiterate that Councils, as commissioners of services, will be held accountable for the actions of their commissioned service provider's failings. This requires the Council to continue to strengthen its systems with commissioned service providers.

- 3.2 As can be noted in the report, service user expectation of what they can reasonably expect from the Council remains very high. Indeed service users feel more empowered to challenge assessment outcomes and to even escalate their complaints to the Ombudsman as evidenced by the number of complaints made to the Ombudsman.
- 3.3 Despite the challenges, it has been a good year for Adults and Health Directorate as can be noted from its performance and the 100% compliance rate of complaints reviewed by the Local Government and Social Care Ombudsman.
- 3.4 It has maintained its excellent performance in acknowledging complaints and resolving complaints within agreed timescales. In this reporting year, the timescale performance for acknowledging complaints was 98% and that of resolving complaints within timescales agreed with complainants was 98%.
- 3.5 So far Adults and Health Directorate has an excellent record of complaints reviewed by the Ombudsman. It achieved a 100% compliance rate. This indicates the Ombudsman's satisfaction with the evidence provided by Adults and Health Directorate to implement recommendations it had agreed to implement. In 14% of the 7 upheld cases, Adults and Health Directorate had already offered a suitable remedy for a complaint before it reached the Ombudsman. The national average was 10%.
- 3.6 In this reporting year complaints training was delivered face to face to 214 staff before we paused our face-to-face training due to the COVID-19 pandemic. Arrangements are now in place to provide virtual classroom training.
- 3.7 Adults and Health Directorate received 1680 compliments in this reporting year compared with 1131 the previous year, representing a 49% increase. The compliments received evidence how the Adults and Health Directorate is meeting the key qualities people expect from Health and Social Care Services. As can be noted in the main report, there are excellent examples of service users and/or their families thanking staff for being kind, respectful, treating them with dignity. Examples of other professionals praising staff for effective joint working and how staff have promoted positive working relationships with partners. The Re-ablement service being praised for making people more independent and increasing their confidence and generally improving their quality of life which has aided their recovery. Overall excellent feedback across the board.
- 3.8 The Adults and Health Directorate Complaints Team has good joint working arrangements with its NHS Partners and the Voluntary Sector. We continue to provide a 'no wrong door'. The city wide Complaints group meet bi-monthly. To further improve our joint working arrangements, it has been identified that there is a need to improve sharing of lessons learned from mixed sector complaints. Although we can, within individual organisations evidence the learning from complaints, there is, however, no central mechanism to draw together and share lessons learned from mixed sector compliments and complaints. A system is now in the process of being developed which should draw together and highlight lessons learned from people's experience of health and social care across the city.

3.9 The focus for the Complaints Team during these challenging times is to ensure that we communicate clearly with complainants and keep them informed of any progress.

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 The Compliments and Complaints Annual Report details standards of consultation and engagement with all key stakeholders and the extent to which services are meeting customers' expectations.

4.1.2 The Analysis of the compliments received and meetings with complainants, service users and/or their carers to discuss and try and resolve their complaints evidence extensive consultation between staff and the relevant service user and/or their representative.

4.2 Equality and diversity / cohesion and integration

4.2.1 This report is being presented for information about compliments and complaints received during the twelve months between 1 April 2019 and 31 March 2020. It is, therefore, not relevant to undertake an equality impact assessment.

4.2.2 All complaints are subject to equality monitoring, which now includes all the equality characteristics protected through legislation (age, disability, gender, race, religion or belief, sexual orientation). Information is most frequently provided on ethnicity, gender and disability. No information has been provided about other characteristics. 37.3% of all complaints have ethnicity recorded, reflecting a decrease from 54% the previous year. 96.2% have gender recorded. 34.1% of complaints state whether the person was disabled or not. A breakdown of the equality related information provided by complainants is detailed in Appendix 6 of this report.

4.2.3 The focus is to continue monitoring the nature of any complaint which may cause the service user an inequality.

4.3 Council policies and the Best Council Plan

4.3.1 The number of compliments and complaints received involving service users and carers of Adults and Health, commissioned providers and health partners have provided opportunities to promote partnership working with all key stakeholders.

4.3.2 The compliments received also demonstrates how the Adults and Health Directorate is meeting the city priorities.

Climate Emergency

4.3.3 When making arrangements for meeting with complainants and/or providing complaints training, we explore arrangements which helps cut down on travelling to the city centre to attend training or meet with customers at venues which takes into account reducing unnecessary carbon emissions.

4.3.4 Unnecessary printing is also avoided by not printing training manuals. These can now be sent out electronically.

4.4 Resources, procurement and value for money

- 4.4.1 Under Section 92 of the Local Government Act 2000, Local Authorities are empowered to remedy any injustice arising from a complaint. It is, therefore, practice to consider small ex gratia payments by way of recompense for costs incurred or compensation for a distress caused as a result of a matter complained about. In some cases it may be appropriate to waive care fees. The Local Government and Social Care Ombudsman also has powers to direct the authority to pay compensation and to recommend the amount.
- 4.4.2 In addition to the above, payments are also offered as a result of internal complaints investigations. The amounts paid in view of the above are detailed under Resource Implications above.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The Local Authority Social Services and National Health Service Complaints (England) Regulations (2009) and the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 which established Public Health functions place a duty on Councils and the NHS to establish and implement a procedure for dealing with complaints and representations. The complaints procedure is a two-stage process, the first stage being consideration by the Council and the second being investigation by the Health or Local Government and Social Care Ombudsman.
- 4.5.2 A person is eligible to make a complaint under the statutory complaints procedure where the Local Authority or the Health Service has a power or duty to provide or secure a service.
- 4.5.3 The regulations require the local authority to publish an annual report on compliments and complaints.
- 4.5.4 The Ombudsman has produced good practice guidance (Effective Complaint Handling for local authorities, October 2020) which highlights the important role which elected members play in the scrutiny of local authority complaints process.
- 4.5.5 This report does not contain any confidential or exempt information in accordance with the access to information procedure rules. This report is not subject to call in.

4.6 Risk management

- 4.6.1 It is a statutory requirement to produce and publicise a Complaints Annual Report which provides information on the quantity of the complaints received and the adequacy of the Complaints Procedure. Failure to produce and publicise the Annual Report would be in breach of the statutory requirement.
- 4.6.2 The timescales for acknowledging and responding to complaints are a statutory requirement; failure to respond within agreed timescales would breach the Complaints Procedure regulations.
- 4.6.3 Complaints to the Local Government and Social Care Ombudsman can result in a public report being issued by the Ombudsman. No complaints to the Ombudsman in this reporting year were the subject of a public report.
- 4.6.4 The Courts would normally expect a complainant to have exhausted the statutory complaints process before initiating legal proceedings. Where there are serious operational failures and a public report and apologies are offered, it is possible that

a complainant would take that as an admission of liability and as grounds to make a legal claim. Should any complainant choose to make a legal claim the legal claim would be passed to the Council Insurance Services or to Legal Services for their attention.

5. Conclusions

- 5.1 The Council has continued to face financial challenges and enormous amount of pressures that necessitate tough decisions to deliver care services. Despite this, as highlighted in the main report, the Ombudsman has made it clear that when it comes to service delivery, no concessions will be made for the said financial pressures. In addition the Council, as commissioner, will be held accountable for the commissioned service provider's failings. This requires the Council to continue to strengthen its systems with commissioned service providers.
- 5.2 As noted in the main report, service user expectation of what they can reasonably expect from the Council remains very high. Indeed service users feel more empowered to challenge assessment outcomes and to even escalate their complaints to the Ombudsman as evidenced by the number of complaints made to the Ombudsman.
- 5.3 The focus for the Complaints Team during these challenging times has been to ensure that we communicate clearly with complainants and to keep them informed of any progress.
- 5.4 As in previous years, it is important that the Council takes even greater measures to evidence that lessons learned from complaints are used to improve and maintain the quality of the services it provides and commissions. Complaints continue to be a complex and difficult service area with both legal and insurance implications.
- 5.5 The Complaints Team looks forward to a period of productive change with on-going collaboration with both internal and external partners to improve social care service delivery to the citizens of Leeds.

6. Recommendations

- 6.1 That the Scrutiny Board considers the details presented in this report and determines any further scrutiny activity and/or actions.

7. Background documents¹

- 7.1 None.

8 Appendices

- 8.1 Appendix 1 - Compliments and complaints annual report 2019-2020

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.