



Adult Social Care Complaints Policy & Procedure

Guidelines for Dealing with Complaints
From Members of the Public

Adult, Culture and Community Services

December 2008

Adult, Culture & Community Services

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1. Forward

We have a legal duty to provide the people who use Haringey Adult Social Care with the care and protection they need and deserve. I want us all to set the highest standards we can in the services we provide. Nevertheless, despite our best efforts, we will not be able to get it right all of the time. When we do not get it right, or our service users do not believe we have got it right, I want them to feel able to tell us what their concerns are, for them to feel that we want to hear their concerns and that we will try to put things right if we can. It is neither easy to complain, nor to be complained about, but we need to be told when we get things wrong, so that we learn and improve our services. Haringey Council has a Public Complaints policy which governs some of our work, but as far as complaints are concerned there are some issues which specifically apply to Adult Social Care. These guidelines set out a way of providing a consistent approach to deal with complaints made by members of the public about our work in Adult Social Care. The aim of the guidelines is to ensure a positive approach to our service users' rights as well as reassuring staff that they will be treated fairly if they are complained about.

Mun Thong Phung
Director
Adult, Culture & Community Services.

2. Introduction

Legislation under the NHS and Community Care Act 1990. sets out how Adult Social Care must have an agreed process for managing complaints This guidance replaces that contained in 'Community Care in the Next Decade and Beyond, Policy Guidance 1990' and the Complaints Procedure Directions 1990.

In addition the Council has it's own complaints procedure and it is the duty of the Complaints Manager to determine under which procedure a complaint is dealt with.

The word "Complaint" often conjures up very negative images. People generally find it hard to both to complain, and to be complained about. Complaints regarding Adult Social Care will be about sensitive personal services, delivered to vulnerable people. At the same time many of the services we provide are not commodities (as in so many businesses) but our own skills and assessment. So, when complaints are received they are often worded, or perceived to be, complaints about us. We need to change this perception – we need to know that mistakes are okay and that complaints need to be looked on as a means of receiving valuable feedback in our aim to provide high quality services, and not an attempt to criticise individuals.

There are many benefits to a good complaints system, including:

- It helps us to know what our service users think of us,
- It helps us to plan future service developments,
- It helps to identify the needs of specific groups,
- It helps us to deliver service improvements,
- It gives us a chance to put things right if they have gone wrong,
- It provides vital information about trends.

The main aim of an effective complaints procedure is to resolve dissatisfaction of service users, their carers or their representatives with regard to services they have received, or believe they should have received. We want to ensure we provide a transparent system which will help people to express any problems they have. We believe this will be best done through a consistent system which will be applied to all cases, a means of keeping people informed about what is happening, and our best efforts to put things right when complaints are found to have substance. An effective complaints procedure will help the Directorate improve the delivery of services by highlighting where change is needed.

The Policy and Procedure is revised as a result of the Health and Social Care (Community Health and Standards) Act 2003. It applies to England only. The key features of the new procedure include:-

- The introduction of a 12 month time limit to make complaints
- Requirement to appoint a Complaints Manager; and
- A requirement for the composition of a Stage 3 – Review Panel to be more independent. This should ensure less variation between authorities and a more consistent response to complainants against measurable frameworks.

The Policy and Procedure is intended for all social care staff, service users, their carers and representatives, commissioned independent people and investigating officers.

3. Aim

We aim to:

- To promote an easily accessible and transparent complaints procedure
- Ensure that the people who use the service are treated with dignity and respect, are not afraid to make a complaint, and have their concerns taken seriously.
- Make sure that as many complaints as possible are resolved swiftly and satisfactorily at local level.
- Ensure that the complainant using the service receives a full response without delay and is kept informed of any delays.
- Deal with complaints openly, honestly, efficiently.
- An understanding in the services that complaints are the best way to improve services
- Make sure that any concerns about the protection of vulnerable adults are referred immediately to the relevant social care team or to the Police.
- Ensure adequate support for everyone involved in the complaint.

Individuals can raise issues either as a representation or as a complaint. Complaints help to make sure the voices and experiences of adults and their representatives are heard. The Local Authority welcomes comments, complaints and compliments as an effective way of monitoring and improving services.

4. Roles and responsibilities

All Haringey Adult Social Care staff have a responsibility to know the Directorate's complaints procedures, and to be helpful to people who wish to complain. It is staff responsibility to try to resolve service users' complaints, and to help them to register their complaints if they are not satisfied. The Directorate recognises that it is important for the complaints procedure to be promoted within the context of service users rights, and it will also help increase staff confidence; that they will be treated fairly if they are complained about. The Directorate acknowledges that staff work in a difficult environment where they are often under extreme pressure. There is additional information about responsibilities that are set out further down in this document.

5. Descriptions

What is a Representation

A representation is a comment or suggestion of a general nature, which is not necessarily critical or a complaint. Representations include enquiries

about the availability, and comments on the delivery and nature of services. They should as far as possible be sought out and welcomed in order to measure user satisfaction.

If it is possible that the matter can be resolved immediately or that a person wishes to make a constructive suggestion, there would be no need to engage the complaints procedure.

What is a Complaint

A complaint may be generally defined as “an expression of dissatisfaction or disquiet about the actions, decisions or apparent failings of a Local Authority’s adult’s social care provision which requires a response”, as defined in “Learning from Complaints” – Guidance on Changes to the Adult Social Care Complaints Procedure for Adults.

In simple terms:

A complaint is a statement about expectations which have not been met.

Haringey Council has a Public Complaints Process and the guidance for Adult Social Care staff should be read and worked with in conjunction with that Public Complaints Procedure. A small number of complaints coming into Adult Social Care would be dealt with under these wider Council Complaints Procedures. However, if any member of staff is in any doubt as to which process should be used in a particular case, and this is not always immediately obvious, then advice should be sought from the Complaints Manager.

Who may complain?

Any person to whom the Local Authority has a power or duty to provide or secure the provision of a service can make a complaint.

A complaint may be made by a representative acting on behalf of an eligible person where that person, has asked the representative to act on their behalf or is not capable of making the complaint themselves.

A complaint may also be made by a representative in respect of a person who has died.

Who May complain on Behalf of Someone Else?

The Complaints Manager has discretion to decide whether or not the person is suitable to act as a representative or has sufficient interest in the individuals’ welfare. Where appropriate they should discuss this with the relevant operational manager.

If the Complaints Manager considers that the representative is not eligible to complain on the person’s behalf they will notify them of this in writing explaining that no further action will be taken.

Complaints from Self-funded Users of Independent Services

Complaints from self-funded users of independent services cannot be considered under the local authority complaints procedures. The Care Standards Act, 2000 requires providers to have their own complaints procedure in place, and these service users can access that procedure.

With regards to services that are regulated (including local authority specific functions) complaints procedures are required under separate regulations and National Minimum Standards under the Care Standards Act, 2000.

Complaints are likely to occur from the following:

- Commissioning
- Placement Arrangements
- Placement Monitoring
- Personal needs reassessments
- Funding
- Contractual arrangements
- Service agreements
- Service quality; and
- Care regime matters not covered by regulations and National Minimum standards

If the Complaints Manager receives such a complaint, it should be directed to the service provider. If the Council is responsible for the original assessment of need that led to the placement and the associated funding, then the complainant should in most instances have the option to use the Council's complaints procedure.

Anonymous Complaints

Anonymous complaints fall outside the scope of the statutory procedure but should be referred to the Complaints Manager and recorded in the same way as other complaints. The fact that a complaint is from an anonymous source is not enough in itself to justify a decision not to pursue the matter. The Complaints Manager will decide whether or not to pursue the matter or refer to other procedures.

What may be complained about?

A complaint may arise as a result of many things, relating to statutory social care functions. Adult Social Care functions are set out in Section 1A and Schedule 1 of the Local Authorities Adult Social Care Act (1970).

This may include the following; however, this is not an exhaustive list.

- An unwelcome or disputed decision;
- Concern about the quality or appropriateness of a service;
- Delay in decision making or provision of services;
- Delivery or non-delivery of services;
- Quantity, frequency or charge of a service;
- Attitude or behaviour of staff;
- Application of eligibility and assessment criteria.
- The impact on an individual of the application of a Local Authority policy.

Complaints should be considered under this procedure when they are about relevant services provided under any partnership arrangements that the Local Authority has with third party providers. This includes those that fall outside the formal arrangements under the Health Act 1999. For example,

where a person's assessed needs are met by a contract with another public body, agency or voluntary body the Local Authority still has a duty of care.

Where social work information or a social work report has been used in Court proceedings. The complainant can make a complaint about the report (i.e. its quality/accuracy) distinct and separate to the subsequent actions of the Court. If this complaint is upheld, the complainant should be advised of what proposed action is being taken with regard to the Court action.

With complaints involving regulated services under the Care Standards Act 2000 and where services are delivered on the Local Authority's behalf or through an internal service that is regulated, the Complaints Manager will need to consider whether the complaint can be considered under this procedure.

What cannot be complained about?

The complaints procedure excludes those for whom the Local Authority has no power to provide a service. It does not apply when: -

- The person wishing to complain does not meet the requirements of "*Who may complain?*" and is not acting on behalf of such an individual. The complaint is solely in regard to actions and decisions of another department, agency or body (e.g. Police or court decisions). Where the same complaint has already been made and has been dealt with at all stages of the procedure.
- Matters that should be dealt with under other proceedings such as the:
 - The Council's corporate complaints procedure
 - Disciplinary procedure;
 - Grievance procedure;
 - Personnel procedures;
 - Services for which an alternative statutory appeals process already exists
 - Criminal investigation where Court action is pending;

As well as the above, decisions made by Approved Social Workers cannot be complained about. Where an Approved Social Worker exercises functions under the Mental Health Act, 1983, they act in a personal capacity and are not acting on behalf of the Local Authority. However, complaints made about the process of the assessment and/or actions of the Approved Social Worker can form the subject of a complaint.

Complaints from self-funded users cannot be considered under the Local Authority's complaints procedure. However, users of a regulated service would be subject to protection through normal safeguarding regulations and where necessary, protection of vulnerable adults.

In addition it is a requirement of the Care Standards Act, 2000 that the providers have a complaints procedure in place which service users are entitled to access.

Self-funded users should be informed of their rights as above.

Where the complainant has stated in writing that they intend to take legal proceedings in relation to the substance of the complaint, or has commenced legal action the Complaints Manager can restrict access to the complaints procedure.

6. The Procedure

6.1. Introduction

The handling and consideration of complaints consists of three stages, Stage 1 - Local Resolution, Stage 2 - Investigation and Stage 3 - Review Panel. Mediation should be considered at all stages. All members of staff who receive complaints should initially attempt to resolve them.

Local resolution requires the operational managers to resolve a complaint as close to the point of contact with the service user as possible (i.e. through front line management of the service). In doing so the Local Authority will consider the wishes of the complainant about how the complaint should be dealt with. In most circumstances complaints should be considered at Stage 1, in the first instance.

Where a complaint is considered at Stage 1, the complainant is entitled to pursue their complaint further through the Adult Social Care complaints procedure, except in the case of cross boundary issues. In all other instances, once a complaint has entered Stage 1, the Local Authority is obliged to ensure that the complaint proceeds to Stages 2 and 3 of this procedure, if that is the complainant's wish.

6.2. Receiving a Complaint

All complaints will be formally recorded once received. Complaints will be received in many forms - verbally (face to face, or by phone, audio cassette, minicom/ textphone or Typetalk) or in a written format (by letter, by fax, in braille, by E Mail, or via the internet).

A complaint will be logged on the date on which it is first received by the Local Authority. The Local Authority's Complaints Unit will aim to be sensitive, service user-friendly and fully accessible and information about advocacy services will be provided, if required by a service user.

If a complaint is made to a member of staff, the Complaints Manager must be informed as soon as possible, so that the complaint is recorded and monitored.

As soon as it becomes apparent that someone wishes to make a complaint, the complainant should be given information about the complaints procedure. They should also be given details on how to contact the Complaints Manager.

The complainant retains the right to approach the Local Government Ombudsman at any time and this will be made clear in publicity to service users. However, the Ombudsman would ordinarily expect the Local Authority to consider the complaint initially and may refer the complaint back to the relevant Complaints Manager if this has not been done.

6.3. Time Limits for Making a Complaint

There is a one-year time limit for making complaints. However, there should generally be a presumption in favour of accepting the complaint unless there is a good reason against it. Decisions need to be made on a case-by-case basis.

There are exceptions to accepting a complaint made after the one-year time limit, which are at the discretion of the Complaints Manager. For example consideration should be given to whether:

- There is genuine issue of vulnerability.
- How much benefit could be gained by doing an investigation;
- Whether there is likely to be sufficient access to information or individuals involved at the time to enable an effective and fair investigation to be carried out.
- Delay has been caused by the actions of the Council rather than the complainant.
- Action should be taken in light of human rights-based legislation.

Where a decision is taken not to consider a complaint made over the time limit, the Complaints Manager will write to advise the complainant that their complaint will not be Considered.

7. Role of the Complaints Manager

- 7.1 There is a statutory requirement for the Local Authority to appoint a Complaints Manager who will meet the existing role of the Designated Complaints Officer. The functions performed by the Complaints Manager may be delegated to any person acting on behalf of the Complaints Manager.
- 7.2 The Complaints Manager and the complaints function are independent of operational line management and of direct service providers.
- 7.3 The Complaints Manager will manage, administer, monitor and develop the complaints procedure.
- 7.4 The Complaints Manager will provide a sensitive, customer focused service for representations and complaints appropriate to the needs of service users, their representatives and carers, including helping them understand their options.
- 7.5 The Complaints Manager will take an active role in facilitating resolution of complaints by identifying appropriate staff and external people (Advocates, Independent People and Investigating Officers, where required) to contribute to complaints work, ensuring that there

is no conflict of interest at any stage between parties involved in delivering the complaints procedure.

- 7.6 The Complaints Manager will provide information, advice and support to vulnerable adults about independent advocacy services and support them in accessing these services.
- 7.7 The Complaints Manager will ensure that the complainant and key people are kept informed of progress throughout.
- 7.8 It is the responsibility of the Complaints Manager to advise and direct operational managers on matters relating to effective complaint handling.
- 7.9 The Complaints Manager will provide advice and support to staff involved at all stages of the complaints procedure.

8. Advocacy and Support

- 8.1 During the course of making a complaint, a service user may request assistance from an advocate. The Local Authority will support this request by facilitating independent and confidential advocacy and actively providing information and advice.
- 8.2 The Local Authority will consider where appropriate, what type of support and encouragement it should offer to service users while their complaint is being processed.
- 8.3 The Local Authority will consider how to meet the varying needs of complainants. This is particularly important in relation to complainants whose first language is not English and those with communication difficulties. This is particularly relevant for people who are vulnerable, or who find it difficult to make their views heard. The Local Authority will consider publicising facilities available to complainants from voluntary organisations and local community or self-help groups.

9. Confidentiality

Complaints will be treated as confidentially as possible at all stages of the procedure. Information given in connection with complaints will only be shared with those who need to know or be consulted. If a complainant is concerned they will suffer victimisation or any retribution for making a complaint, they should discuss this with the Complaints Manager or their representative.

10. Procedure for all Stage One Complaints

- 10.1 A complaint is registered on the date on which it is first received by the Local Authority. The expectation is that the majority of complaints should be considered (and resolved) at Stage 1. However, if the Complaints Manager or the complainant believes that it would not be appropriate to consider the complaint at Stage 1, they will discuss

this. Where both parties agree, the complaint can move directly to Stage 2.

- 10.2 A complaint may be made to any member of staff of the Local Authority. If a member of staff receives a complaint, they should immediately notify the Complaints Manager. A copy of the written complaint or a summary of the verbal complaint should be submitted to the Complaints Team. The Complaints Team must acknowledge the complaint in writing within 2 working days.
- 10.3 At Stage 1, operational staff and the complainant should discuss and attempt to resolve the complaint as quickly as possible.
- 10.4 Complaints must normally be concluded within 10 working days. The period of 10 working days may be extended for a further period of 10 working days where:
 - The Local Authority cannot provide a complete response
 - The complainant has requested an advocate; at which point Stage 1 can be suspended until an advocate has been appointed, provided that this suspension does not last more than 10 working days
- 10.5 The total maximum amount of time that Stage 1 should take is 20 working days.
- 10.6 It is important that all parts of the complaint are responded to and the response must be in the most appropriate format to meet the communication needs of the service user.
- 10.7 Managers may give an immediate written response or arrange a meeting to discuss the problem. If a problem becomes a complaint, the manager responsible for the service must deal with it. However, managers should not respond to complaints that relate directly to them. In this situation, their immediate line manager must respond to the complaint.
- 10.8 Where the operational manager has difficulty in resolving complaints, the Complaints team can facilitate a Resolution or Mediation meeting between the manager, operational staff and complainant.
- 10.9 The meeting should be formally recorded. The Chair of the Mediation or Resolution meeting must send a copy of the minutes, confirming the agreed actions to the complainant within 10 working days from the date of the meeting. The complainant must be advised of their right to proceed to Stage 2 investigation if they remain dissatisfied. A copy should also be sent to the Complaints Team.
- 10.10 The Complaints Manager will inform the complainant that they have the right to move on to Stage 2 Investigation if the timescale has

elapsed for Stage 1 and the complainant has not received an outcome. This period can be extended with the complainant's agreement or request.

- 10.11 If the complainant is dissatisfied with the Local Authority's response, the complainant has 20 working days to request consideration at Stage 2 – Investigation. If the Local Authority has failed to make a response at Stage 1 within 20 working days, the complainant has the right to request consideration at Stage 2.

We should try hard to resolve complaints at this first stage.

Service Users like it because their problems are dealt with quickly and straightforwardly by the people who can really make a difference. Very few service users want a long report telling them they are right (or wrong!) - they want something to change locally which will make a difference to them or their family.

Staff like it because it puts them in charge of possible solutions to problems and communicates Management trust in them to try and get things right. It also avoids costly waste of staff time which other stages involve, taking the key people away from the job they most want to get on with.

Adult Social Care Senior Managers like it because it is cost effective and helps the service user to believe that they are not dealing with a nameless bureaucratic system.

11. Stage Two- Investigation

- 11.1 On receipt of a request for a Stage 2 – Investigation the Complaints Manager will ensure that an Investigating Officer is appointed to investigate the complaint and prepare a written report for adjudication within a reasonable period of time.
- 11.2 The Investigating Officer may be either an internal officer or an external consultant. However they must not be in direct line management of the Service complained about, or the person to whom the complaint refers.
- 11.3 Where a complaint is received verbally, the details of the complaint should be agreed with the complainant in writing. It is at the point that the complaint is agreed the timescale commences.
- 11.4 The Stage 2 - Investigation should be completed and the response sent to the complainant and their advocate within 25 working days from the date on which the complaint was agreed.
- 11.5 The aim should be to complete the formal investigation stage within the 25 working day time limit, with extension to 65 working days only being used when necessary. For example, in complex complaints, that may involve several agencies.

- 11.6 The timescale may be extended with the permission of the complainant and/or their advocate, and agreed by the Complaints Manager.
- 11.7 Where it is not possible to complete the investigation within the 25 working day period, it must be completed no later than 65 working days from the date on which the written complaint was agreed.
- 11.8 The complainant must be informed as soon as possible in writing of the reasons for the delay and the proposed timescales for completing the investigation.
- 11.9 Where one or more agency, specifically the Health Authority is involved, then it is preferable to aim for whichever complaints procedure is the shorter timescale to produce the final response.
- If, following a local problem solving stage a complainant makes it is clear that the complainant wishes to take the matter further, s/he should not be required to start the process again by writing formally to the Complaints Manager. The Manager who has been dealing with the Stage 1 complaint should take responsibility to refer the matter immediately to the Complaints Manager and send any relevant documents. The Complaints Manager will automatically initiate a Stage 2.

12. Role of the Investigating Officer

- 12.1 It is a requirement under the NHS and Community Care Act 1990 that an Investigating Officer is appointed to investigate complaints at Stage 2 – Investigation. Upon receipt of the details of the complaint and desired outcome from the complainant in writing, the Complaints Manager will appoint an Investigating Officer for this stage of the process.
- 12.2 The Investigating Officer will not be in direct line management of the service or person about whom the complaint is being made and will have had no previous involvement in the complaint. The Complaints Manager may commission an Investigating Officer wholly independent of the Local Authority, to carry out the investigation.
- 12.3 The Complaints Manager, Investigating Officer and Independent Person (if applicable) should plan how the investigation is to be carried out, ensuring that all those concerned in the process understands it.
- 12.4 The Investigating Officer plays the leading role in the investigation and must provide transparent and fair consideration of the complaint, whilst working closely with the Independent Person.
- 12.5 The Investigating Officer will agree the details of the complaint with the complainant.

- 12.6 The Investigating Officer will seek information, by meeting with the service user and their representative, interviewing all relevant staff, reading case files, relevant legislation, policy and procedures to consider the complaint.
- 12.7 The Investigating Officer must provide a written report within the specified timescale, based on the facts uncovered for adjudication. The report should communicate the findings, conclusions and recommendations on each complaint in as simple and straightforward a way as possible, which should be designed to aid resolution and learning.
- 12.8 The Investigating Officer must agree any delay with the complainant and notify the Complaints Manager of any such delay in writing.

13. Role of the Independent Person

- 13.1 Where there are significant concerns about the vulnerability of the complainant and the seriousness of the complaint, the Complaints Manager will consider appointing an Independent Person as well as an Investigating Officer. When considering this option, the Local Authority will take into account the '*No Secrets*' guidance on multi-agency procedures to protect vulnerable adults from abuse.
- 13.2 Where an Independent Person is used, the role will be filled by a separate person in addition to the person fulfilling the role of Investigating Officer. This person cannot work for the Local Authority, or be an Elected Member or partner of such a person.
- 13.3 The Independent Person will work alongside the Investigating Officer and oversee the investigation of formal complaints.
- 13.4 They will have full access to all aspects of the investigation, including access to written records.
- 13.5 It is intended that the Independent Person will ensure fairness and transparency.
- 13.6 The Independent Person must also provide a report to the Local Authority. The report should consider whether in their opinion the investigation has been conducted in an impartial, comprehensive and effective manner.
- 13.7 The Independent Person should also consider whether all those concerned have been able to express their views fully and without duress.

- 13.8 The Independent Person will also provide an oversight of the Investigating Officer's report and confirm that it provides an accurate and complete picture of the investigation.
- 13.9 The Independent Person will specifically comment on each of the complaints and state whether they agree with the Investigating Officer's findings on each of them.
- 13.10 The Independent Person may make their own recommendations.

14. Stage Two- Investigation Report

- 14.1 On completion of his consideration of the complaint, the Investigating Officer should write a report on his investigations. The report should:
- include all relevant information;
 - be clear about what the findings and outcomes are against each point of complaint (i.e. "upheld" and "not upheld,);
 - distinguish between fact, feelings and opinion;
 - contain details of findings, conclusions and recommended actions, and address all three areas;
 - recommend how to remedy any injustice to the complainant as appropriate; and
 - be written in plain language, avoiding jargon, so that everyone can understand it.
- 14.2 Good practice suggests that the Independent Person should also provide a report to the local authority once he has read the Investigating Officer's final report. He may wish to comment on:
- whether he thinks the investigation has been conducted entirely in an impartial, comprehensive and effective manner;
 - whether all those concerned have been able to express their views fully and fairly;
 - whether the Investigating Officer's report provides an accurate and complete picture of the investigation; and
 - the nature of the recommendations, or make his own recommendations as necessary.

15. Adjudication

- 15.1 The Adjudicating Officer is normally a second tier manager, who reports to the Director of Adult, Culture & Community Services.
- 15.2 The purpose of adjudication is for the Council to consider the reports and identify:
- Its response
 - Its decision on each point of complaint; and
 - Any action to be taken (with timescales for implementation)

- 15.3 The Adjudicating Officer may wish to meet with the investigating officer and independent person to discuss the complaint reports before writing their response to the complaint.
- 15.4 Discussion should take place between the Adjudicating Officer and the Complaints Manager regarding whether it is necessary to meet the complainant to explain the outcome of the complaint and any actions taken. If it is decided necessary to meet the complainant and their advocate, they can either be involved in the adjudication meeting or afterwards. This will depend on the particular issues of complaint.
- 15.5 The Adjudicating Officer must write to the complainant, enclosing a copy of the Investigating Officer's report and if applicable, the Independent Person's report, confirming the Local Authority's response to the reports, their decision on the complaint(s) for example whether they agree or disagree with the investigating teams findings and recommendations. The letter should also include actions they intend to take and the timescale for implementation.
- 15.6 The formal response (adjudication) letter will advise the complainant of their right to request a Stage 3 – Review Panel. The complainant or advocate must inform the Complaints Manager of their wish to proceed to Stage 3 – Review Panel within 20 working days from the receipt date of the Stage 2 – Investigation response. After this time, it will be at the discretion of the Complaints Manager as to whether the complaint can proceed to Stage 3 – Review Panel.
- 15.7 A copy of the formal response letter, together with the report/s should also be sent to the Head of Service, Service Manager, Team Manager or Practice Manager and anyone else directly involved in the complaint where appropriate.
- 15.8 The Adjudicating Officer should ensure that any recommendations contained in the formal response letter are implemented.
- 15.9 A 'Complaint Recommendation/Learning Meeting' will be convened by the Complaints Manager as soon as possible after the adjudication. All staff involved in the complaint will be required to attend.

16. Stage Three- Review Panel

- 16.1 Where Stage 2 of the complaints procedure has been concluded and the complainant is still dissatisfied, they will be eligible to request further consideration of the complaint by a Review Panel. It is not possible to review a complaint that has not yet been fully considered at Stage 2 (including providing the report(s) and adjudication to the complainant).

- 16.2 Requests for a Review Panel will be assessed on a case-by-case basis. If the complainant requests a Review Panel, the Complaints Manager and Head of Service may offer to meet with the complainant (and their advocate, if applicable) to try to resolve outstanding issues. The Complaints Manager may also discuss with the complainant whether the complaint is suitable for early referral to the Local Government Ombudsman.
- 16.3 The Review Panel may review both the quality of the investigation and any actions taken as a result of recommendations relating to the complaint being considered.
- 16.4 They should do this by:
- Listening to all parties;
 - Obtain any further information and advice that may help resolve the complaint to all parties' satisfaction;
 - Focus on achieving resolution for the complainant by addressing clearly defined complaints and desired outcomes;
 - Reach findings on each of the complaints being reviewed;
 - Make recommendations that provide practical remedies and creative solutions to complex situations;
 - Support local solutions where the opportunity for resolution between the complainant and the Local Authority exists;
 - Identify any consequent injustice to the complainant, where complaints are upheld, and to recommend appropriate redress; and
 - Recommend any service improvements for action by the Local Authority.
- 16.5 The Review Panel should not reinvestigate the complaints, nor should it consider any substantively new complaints that have not been first considered at Stage 2.
- 16.6 The Review Panel will consist of three people, two of whom are independent panel members, one must be the Chair; the third panel member can include an Elected Member. An independent panel member is defined as, 'a person who is neither a member nor employee of the Local Authority, nor a spouse or civil partner of a member or employee.' No member of the Panel may be an officer, nor spouse or civil partner of an officer of the Local Authority that is considering the complaint.
- 16.7 The Review Panel should meet within 30 working days of the Local Authority's receipt of the complainant's request.
- 16.8 The Local Authority may attempt to resolve the problem with the complainant but this should not interfere with the convening of the Review Panel within the appropriate timescales.

- 16.9 The complainant's request for a Review Panel will be acknowledged in writing within 2 working days of receipt. Complainants will be asked if they have any individual requirements, which will have to be taken into account if they are to participate fully in the meeting.
- 16.10 A letter of notification will be sent to the complainant at least 10 working days before the Review Panel meet. This must invite the complainant to attend the meeting, with the time, venue and membership of the Review Panel.
- 16.11 Complainants have the right to bring an advocate or friend along. No more than two supporters can be present unless agreed by the Chair. Barristers or solicitors acting in a professional capacity cannot attend the Review Panel.
- 16.12 The Chair can rule that the review is heard in the absence of the complainant if the complainant fails to attend on more than one occasion. The Chair can also decide if any other members of staff should be present.
- 16.13 The Review Panel will take a view on the need for any further action in respect of any complaints and record their decision.
- 16.14 The Review Panel's findings and recommendations will be sent in writing to the complainant, their advocate and the Director of Adult, Culture & Community Services within 5 working days of the meeting.
- 16.15 Within 15 working days of receiving the Review Panel's recommendations the Director of Adult, Culture & Community Services must consider the recommendations and determine how the Local Authority will respond to them and what they propose to do in light of them.
- 16.16 The Director of Adult, Culture & Community Services will then send to the complainant its response and proposals, along with information about making a complaint to the Local Government Ombudsman.

17. Complaints involving other Authorities or NHS Bodies- Establishing the Lead Agency

- 17.1 If a complaint crosses boundaries at Stage 1 – Local Resolution, the complainant should only have to make one complaint and follow one procedure. Whoever the complaint is made to has the duty to ensure that the complaint is brought to the attention of any other agency.
- 17.2 Where services are delivered by one body acting on behalf of another (Section 31 of the Health Act 1999) this allows for the whole complaint to be considered by the body delivering the services under the appropriate complaints procedure at Stage 1 – Local Resolution.

- 17.3 Where complaints cross boundaries a discussion between Complaints Managers will be convened to identify who should be the lead Complaints Manager. It is the responsibility of the lead Complaints Manager to have overall management of the complaint, as detailed under the Local Authority social care complaints procedure at Stage 1 – Local Resolution.
- 17.4 It is the responsibility of the non-lead agency to fully co-operate with the lead agency and ensure that all pertinent paperwork is available and that all information is shared as per the East London Information Sharing Protocols.
- 17.5 If the complaint cannot be resolved at Stage 1 – Local Resolution and the complainant requests that it escalates to Stage 2 - Investigation, it is important to separate whether issues relate to Adults social care complaints procedure or the NHS complaints procedure. This is to ensure that the differing procedures comply with the respective agencies Stage 3 – Review Panel and the complaint can be subject to the relevant Ombudsman if necessary.
- 17.6 Each agency must investigate under its own procedures and respond promptly to the complainant to the shorter of the two timescales in operation. If aspects of the complaint cannot be completed within the shorter timescale, the complainant will be informed of when the outstanding part of the investigation will be completed. Negotiation and agreement will be sought with the complainant by the lead agency Complaints Manager.
- 17.7 The lead agency Complaints Manager will be the point of contact with the complainant and keep them informed of the process to ensure a complete response under relevant multiple procedures. It is the role of the lead agency Complaints Manager to ensure that timescales are met and that the complaint is responded to.
- 17.8 It is a requirement under the Health and Social Care (Community Health and Standards) Act 2003 that staff from all agencies fully co-operate and be present at meetings, interviews and make their case records and policies and procedures available to the lead Investigating Officer.
- 17.9 In circumstances where a complaint is the sole responsibility of another agency, the Complaints Manager will forward the complaint to the relevant agency after obtaining the consent of the complainant. This should be done within 5 working days.