

# Adult Social Care

## Complaints Policy

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## 1. Introduction

Gloucestershire County Council (we / the council) welcomes compliments and complaints about its Adult Social Care service. These help us to improve our services.

We encourage anyone dissatisfied with Adult Social Care to:

- raise their concerns with the staff member they have been dealing with, or
- ask to speak to their manager instead

We will try to resolve concerns quickly and informally if we can or explain why this is not possible. If it is not possible, or if preferred, people may make a complaint.

This policy explains how to make a complaint about Adult Social Care and how the council will respond.

## 2. Providing information and supporting involvement

The council will publish information about how to make a complaint on its website.

We will tell people using Adult Social Care services about their right to make a complaint and will provide information about how to do so on request.

We will actively support people to be involved in the complaints process. We will make reasonable adjustments in line with our duties under the Equality Act 2010 and the Care Act 2014 to overcome barriers to involvement. Please see also our:

- [Adult Social Care Accessible Information policy](#)
- [Independent Advocacy](#) in Adult Social Care

We will assume that people are able to make their own decisions about their complaint. Where this is not the case, we will follow the [Gloucestershire Multi Agency Mental Capacity Act policy and guidance](#).

We will treat anyone who wishes to make a complaint with courtesy and respect.

## 3. Who can make a complaint

Anyone who is dissatisfied with the service they have received from Adult Social Care or with an Adult Social Care decision, action or omission may make a complaint. This includes:

- adults with care and support needs
- their carers
- young people aged under 18, their carers and young carers aged under 18 who are transitioning to Adult Social Care.

People making a complaint may be referred to in this policy as 'complainants'.

Complaints may also be made by a representative of someone who has used our Adult Social Care Service (including someone who has died) provided that the council is satisfied that:

- the person consents to the representative making a complaint on their behalf (unless the person has died or lacks capacity to agree to representation)
- the representative will act in the best interests of an adult who lacks capacity
- for complaints on behalf of young people aged under 18:
  - there are reasonable grounds for a complaint to be made by the representative rather than the young person and
  - the representative will act in the young person's best interests.

We will give our written reasons if we decide not to act on a representative's complaint.

#### **4. How to make a complaint**

Complaints may be made:

- electronically using our online complaints form or by email
- in writing
- verbally

We will make a written record of verbal complaints and (unless the complaint was made anonymously) provide a copy to the complainant.

#### **5. What the council does when it receives a complaint**

##### **Receiving the complaint**

Unless the complaint made anonymously, we will acknowledge receipt within two (2) working days and provide:

- the name and contact details of the person responsible for investigating
- an indication of when we are likely to be able to provide a response.

When we receive a complaint that should be investigated by another organisation (such as another local authority, the NHS, a care home or a domiciliary care provider), we will:

- contact the complainant for consent to redirect the complaint
- promptly transfer the information to the correct organisation when consent is given. The other organisation is then responsible for acknowledging receipt and investigating the complaint.

When a complaint involves both the council and another organisation(s), we will:

- explain which part of the complaint the council can respond to
- co-operate with the other organisation(s) so that wherever possible the complainant receives a co-ordinated response.

## Investigating and reporting the outcome

We will investigate complaints thoroughly, fairly and without delay.

In most cases we will provide the outcome of our investigation in writing within twenty (20) working days of receiving the complaint. If we are unable to complete our investigation within this timeframe, we will agree a reasonable deadline for a response with the complainant.

Unless a complaint was made anonymously, we will keep complainants informed about progress and about any unexpected delays.

We will provide a written explanation for any complaint that is not resolved within six (6) months of receipt.

## When a complaint is upheld

When a complaint is upheld, we will offer an apology and explain what we have done/will do to put things right and prevent something similar from happening in the future.

We will act in accordance with our duty of candour when a complaint investigation confirms that a notifiable incident has occurred.

## Managing demands on services and staff

While an investigation is in progress, enquiries about the complaint and new concerns from the same complainant will be directed to and managed by the Complaints Manager.

Occasionally people may behave in an unacceptable manner towards our staff and / or place unreasonable demands on our services, for example:

- persistently contacting the council during the complaint investigation
- making multiple complaints about the same or similar issues
- refusing to accept an investigation outcome that a complaint is unjustified

In these circumstances, we may have to restrict the ways in which a complainant may deal with us. If restrictions are required, we will inform the complainant of the reasons for our decision, what restrictions will apply and for how long. Please see the council's [Unacceptable Customer Behaviour policy](#).

## 6. What to do if concerned about the progress or final outcome of a complaint

We encourage anyone who is concerned about the progress or final outcome of their complaint to discuss their concerns with the Complaints Manager.

Anyone who has been through all stages of our complaints process and is not satisfied with the final outcome has the right to ask the Local Government and Social Care Ombudsman to review their complaint.

We will provide information about how to contact the Local Government and Social Care Ombudsman and will co-operate with any requests from the Ombudsman.

## 7. When the council will not / may not act on a complaint

### Time limits

Complaints must be made within 12 months of an event occurring or coming to the complainant's notice.

We may consider complaints made outside of this timeframe if we are satisfied that:

- the complainant had good reason for not making the complaint sooner, and
- despite the delay, we are still able to investigate effectively and fairly.

### Exclusions

There are some matters that we are not required to deal with through Adult Social Care complaint processes. This is usually because a concern has already been dealt with or there are more appropriate ways of managing the problem, for example when the matter:

- is already being / has been investigated through our complaints process or by the Local Government and Social Care Ombudsman
- would be more appropriately investigated through other complaints processes, such as the council's [Corporate Complaints](#) policy, [Complaints about children and young people's services | Gloucestershire County Council](#) policy or [Information Compliance Internal Review and Complaints](#) procedure
- would be more appropriately managed through / is subject to processes such as employment, disciplinary or grievance procedures, criminal investigation and court proceedings

Where the council is not required to act on a complaint, we will explain why in writing and, where possible, suggest other steps that may be taken instead.

Verbal concerns raised with our staff and resolved to the complainant's satisfaction by the end of the next working day are not managed as complaints.

### Complaints about care and support arranged or provided on behalf of the council

Anyone dissatisfied with services arranged or commissioned by the council but provided by another organisation (such as a domiciliary care service or care home) should:

- first make a complaint directly to the organisation concerned

- then, if dissatisfied with the final outcome of the complaint, make a complaint to the council. In exceptional circumstances, the council may accept a complaint which has not first been raised with and investigated by the organisation concerned

People who have entered into a private agreement with a social care provider

Anyone who is self-funding their care and support arrangements and has entered into an agreement independently of the council with a social care provider (such as a care home or a home-care agency) should:

- first make a complaint directly to the organisation concerned
- then if dissatisfied with the final outcome of the complaint, ask the Local Government and Social Care Ombudsman to review their complaint

## **8. The Care Quality Commission (CQC) and complaints about regulated providers**

The Care Quality Commission (CQC) is the independent regulator of health and social care services in England. CQC monitors the quality of and encourages feedback about regulated providers, for example about services such as care homes and home care agencies. CQC does not get involved in complaints but considers feedback from service users when assessing the quality of service provision.

Gloucestershire Shared Lives, Wheatridge Court, Great Western Court and Learning Disability Respite units are regulated services run by the council. Anyone making a complaint about these services may also provide feedback to CQC.

## **9. Complaints records and the annual report**

The council maintains records of complaints and outcomes. We will:

- keep complaints information secure and use it in accordance with the GDPR and Data Protection Act 2018
- prepare an annual report about complaints received for each year ending 31 March and publish it on the council's website by 31 July of the same year

## **10. Implementing, monitoring and reviewing policy**

The council will publish this policy on its website.

We will advise staff and relevant commissioned providers that policy has been revised.

The Complaints Manager and other senior managers will monitor complaints and the outcome of investigations.

We will use what we learn from complaints to improve our services and will share our organisational learning with staff.

This policy will be reviewed by 30 September 2024.

## Appendix 1 – Definitions

<b>Care Quality Commission (CQC)</b>	<p>The Care Quality Commission (CQC) is the independent regulator of health and social care services in England.</p> <p>CQC is responsible for ensuring that health and social care services provide people with safe, effective, compassionate and high-quality care.</p> <p>CQC inspects and monitors the care that regulated services provide. They use information about people's experiences of health and social care services to help them do this. CQC cannot help with a complaint but they are interested in people's experience of care and of making a complaint.</p> <p><b>CQC contact details:</b></p> <ul style="list-style-type: none"> <li>• Website: <a href="http://www.cqc.org.uk">www.cqc.org.uk</a> (<a href="#">give feedback on care form</a>)</li> <li>• Email: <a href="mailto:enquiries@cqc.org.uk">enquiries@cqc.org.uk</a></li> <li>• Care Quality Commission Citygate Gallowgate Newcastle upon Tyne NE1 4PA</li> <li>• Phone: 03000 616161</li> </ul>
<b>Complainant</b>	<p>In this policy, complainant means the person making the complaint or someone who is authorised to represent them.</p>
<b>Local Government and Social Care Ombudsman</b>	<p><b>Completion of local complaints process</b></p> <p>If you have been through all stages of our complaints procedure and are still unhappy, you can ask the Local Government and Social Care Ombudsman to review your complaint.</p> <p>The Ombudsman investigates complaints in a fair and independent way - it does not take sides. It is a free service.</p> <p>The Ombudsman expects you to have given us chance to deal with your complaint before you contact them. If you have not heard from us within a reasonable time, it may decide to look into your complaint anyway. This is usually up to 12 weeks but can be longer for social care complaints that follow a statutory process.</p> <p><b>About the Ombudsman</b></p> <p>The Local Government and Social Care Ombudsman looks at individual complaints about councils and some other organisations providing local public services. It also investigates complaints about all adult social care providers (including care homes and home care agencies) for people who self-fund their care.</p> <p><b>Contact</b></p> <p>Website: <a href="http://www.lgo.org.uk">www.lgo.org.uk</a></p> <p>Telephone: 0300 061 0614</p> <p><b>Opening hours</b></p> <p>Monday to Friday: 10am to 4pm (except public holidays)</p>

<b>Notifiable incidents and the duty of candour</b>	<p>Notifiable incidents in social care are serious and unintended or unexpected incidents that a health care professional believes have resulted in (or require treatment from a health care professional to prevent):</p> <ul style="list-style-type: none"><li>• death</li><li>• impairment of sensory, motor or intellectual functions that has lasted or is likely to last for a continuous period of at least 28 consecutive days</li><li>• changes to the structure of the body</li><li>• experiencing prolonged pain or psychological harm</li><li>• shortening life expectancy.</li></ul> <p>Registered social care providers have a <b><i>duty of candour</i></b> to be open and honest when a notifiable incident occurs. This means:</p> <ul style="list-style-type: none"><li>• telling the person without delay and in person what has happened and providing support</li><li>• providing all the known facts and explaining what further enquiries are appropriate</li><li>• offering an apology</li><li>• following up by giving the same information in writing and providing an update on the enquiries.</li><li>• keeping a written record of all communication with the person.</li></ul>
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## Appendix 2 – Legal context

This policy is based on the following legislation:

- The Local Authority Social Services and National Health Complaints (England) Regulations 2009 as amended.

Other legislation relevant to this policy includes but is not limited to:

- GDPR as enacted in The [Data Protection Act 2018](#)
- The [Equality Act 2010](#)
- The [Human Rights Act 1998](#)
- The [Mental Capacity Act 2005](#) (MCA)
- The [Mental Capacity \(Amendment\) Act 2019](#)

Regulations which apply to health and social care services in England regulated by the Care Quality Commission (CQC). Please see section 8.

- The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 in particular Regulations 16 (receiving and acting on complaints) and 20 (duty of candour).