

London Borough of Barnet

# Adult Social Care Statutory Complaints & Representations Procedure

August 2022

Freedom of Information Act Protective Marking Information	
Protective marking	NOT RESTRICTED
Suitable for publication scheme	Yes
Title and version	Adults Statutory Complaints and Representations Procedure
Relevant to	Adult Social Care
Summary	Statutory complaints and representations procedure for Adult Social Care

# London Borough of Barnet

## Adult Social Care

### Statutory Complaints Procedure

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## Introduction & Principles

This document explains the way in which representations made about Adult Social Care will be addressed under The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

The London Borough of Barnet is committed to having a positive approach to dealing with residents feedback and will deal with complaints impartially, objectively and professionally. Both positive and negative experiences are welcomed as an important part of improving our service.

The aim of this procedure is to enable residents or potential residents and/or their representative to have the confidence, to comment on, complain about or compliment the quality and nature of social care services provided by Adults Social Care.

We want to ensure that our systems are accessible and available to everyone and that people who use the service are treated with dignity and respect. Complainants and their families will never receive adverse treatment because they have made a complaint

We aim to provide a an open, fair and customer focussed service for complainants by offering help, advice and support as required.

We are committed to supporting our residents and working with them to reach a satisfactory resolution.

## Legal Requirements

Adult Social Care is required to operate a statutory complaints procedure under the Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 and the Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009 (referred to as 'the Regulations')

<http://www.legislation.gov.uk>

A complaint will be considered under this procedure when it arises from a statutory social services function as set out in Section 1A and Schedule 1 of the Local Authority Social Services Act 1970.

The services to which this procedure applies are social care services to:

- older people
- people with a physical disability
- people with a learning disability
- people with mental health problems
- any other vulnerable person who is either receiving or have requested an assessment for services

## Duties of the local authority

Adult Social Care will:

- consider any representation or complaint.
- give due regard to any findings.
- decide any action or proposed action.
- formulate a response providing reasons for the decision and notify the outcome in writing within a given timescale.

Where there are significant concerns about the vulnerability of the complainant and or seriousness of the complaint, consideration will be given to appointing an advocate to support the person making a complaint. The Council will signpost complainants to an advocacy service if this is deemed appropriate.

## Accessing the service

Not every expression of dissatisfaction will be a complaint and most issues can be dealt with immediately as normal problem solving duties by our Social Care Direct Team. Colleagues in this team are also best placed to receive any representations (comments both negative and complimentary)

Telephone: 020 8359 5000

E-mail: [socialcaredirect@barnet.gov.uk](mailto:socialcaredirect@barnet.gov.uk)

A complaint can be made to any member of staff but, in the first instance, we encourage the person making the complaint to raise the concern with the member of staff they usually have contact with. Where a complaint is received directly by the local service it will be passed to the Complaints and Information Manager for logging and acknowledgement.

Issues that require an in-depth investigation and a formal response should be raised online, verbally or in writing to the Complaints and Information Manager:

By writing to: The Complaints and Information Manager  
Adult Social Care  
London Borough of Barnet  
2 Bristol Avenue  
London  
NW9 4EW

Email: [complaints.adults@barnet.gov.uk](mailto:complaints.adults@barnet.gov.uk)

Web: <https://www.barnet.gov.uk/your-council/contact-council/complaints>

Telephone: 020 8359 4299

## Who can complain?

A complaint may be made by:

- a person who receives or has received a service from Adult Social Care
- a person who is affected or likely to be affected, by the action, omission or decision of Adult Social Care which is the subject of the complaint.
- a representative acting on behalf of a person mentioned above who has died
- a representative on behalf of somebody unable to complain themselves due to physical or mental incapacity\*
- if a person has asked the representative to act on their behalf. (given consent).

\* Where a representative acts on behalf of a person who lacks mental capacity and Adults Social Care is not satisfied that the representative is conducting the complaint in the best interests of that person, the complaint will not be considered further. The representative will be notified in writing of why no further action is being taken.

## What can be complained about?

A complaint can be made to raise your dissatisfaction or disquiet about the actions, decisions or apparent failings of a local authority's adult's social care services provision.

Complaints may arise for various reasons, such as:

- An unwelcome or disputed decision
- Concern about the quality or appropriateness of a service
- Delay in decision making or provision of services
- Frequency, change or cost of a service
- Attitude or behaviour of staff
- Application of eligibility or assessment criteria

## Time limits for making a complaint

Complaints about incidents that occurred over 12 months ago will only be considered for investigation if:

- it would not be reasonable to expect the complaint to have been made earlier than it was made and
- notwithstanding the delay, it is still possible to consider the complaint effectively and fairly

## Complaints that do not qualify under this procedure

Certain complaints do not qualify for investigation under this procedure. These may be considered for investigation under the Council's corporate complaints procedure.

- the person wishing to complain does not meet the requirements of 'who can complain' and is not acting on behalf of any such individual
- a complaint from a responsible body (NHS body, Primary Care Provider or Independent Provider)
- a complaint by an employee of a Local Authority or NHS complaining about any matter

relating to that employment

- a complaint arising out of the alleged failure by a responsible body to comply with a request for information under [Freedom of Information Act 2000](#)
- the complaint is a repeat of a complaint which has already been (or is being) investigated by Adult Social Care or the Local Government Social Care Ombudsman, Health Service Commissioner or a Local Commissioner
- the complaint is unclear, frivolous, vexatious or unreasonably persistent
- complaints about policy decisions to withdraw or reduce on-going services in relation to Barnet Council's services generally, rather than in relation to the impact on an individual
- complaints from self-funded users (privately or via a direct payment) of independent services

### Complaints resolved in 24 hours

Where a complaint is made orally and is resolved to the complainant's satisfaction (no later than the next working day after the day on which the complaint was made) the complaint does not need to be fully investigated under the statutory guidance or recorded for reporting purposes.

### Safeguarding Adults Procedures

If a complaint raises concerns with regard to adult safeguarding issues, the Complaints and Information Manager will refer the matter to adults safeguarding procedures in accordance with agreed protocols. A decision will then be made concerning a formal investigation under those procedures.

### Anonymous Complaints

Anonymous complaints about a service will not be processed through the statutory system but will be forwarded to the relevant head of service for consideration if serious concerns are raised.

### Direct Payments & Personal Budgets

This process cannot be used for complaints about services that residents or their representatives have arranged and pay for themselves through a direct payment or personal budget. However, issues around the Council role in assessing, advising or setting up these payments can be considered.

### Commissioned Services

With the exception of the council's shared lives service, all Adult Social Services are provided by the independent sector. We commission a range of services for residents, which include care workers who visit you in your home or support you in the community, a placement in a care home and other services to enable you to live as independently as possible e.g., supported living, extra care and enablement.

This is organised or 'commissioned' by adult social care. All providers we work with are

required to have their own complaints procedures in place and we encourage residents in receipt of services, or their representatives, to approach the provider in the first instance when making a complaint. However, if there are serious concerns about whether this would be appropriate or, if you remain dissatisfied following the outcome of their investigations, the council can address your concerns through the statutory process.

### **Non-commissioned Services**

Where a resident wishes to make a complaint about a service accessed privately (i.e. not via adult social care) which is not CQC regulated and / or not commissioned by the Council, then this should be solely directed to the service provider in question and would not come under the remit of the Council's statutory complaints process. In such instances the Council holds no powers to redress matters if it does not have either a regulatory or contractual relationship with the service in question.

### **Joint Health and Social Care Complaints**

Where a complaint covers services arranged by the NHS as well as adult social care, the service with which the majority of the complaint lies will be responsible for the investigation and final response. Where it is agreed that the NHS should lead, then adult social care staff will co-operate fully to support a joint response, unless it is agreed with the complainant that the elements are best dealt with separately by the council and the NHS.

### **The Complaints process**

Upon receipt of a complaint, we will determine whether the complaint qualifies under this complaints procedure and will assess your issues in terms of their seriousness and how likely the issue is to recur.

Upon acceptance, your complaint will be acknowledged no later than 3 working days after receipt into the service.

The acknowledgement will confirm the complaint designation and expected timescales (this will usually be 20 or 25 working days, depending on the complexity of the case or if a longer timescale is agreed during the course of the investigation).

If your complaint does not qualify under this procedure, we will advise the other options available to you.

Complaints are allocated to the appropriate Head of Service, who will become the Investigating Officer. The Investigating Officer may contact you to explain the investigation process or to clarify the main elements of the complaint.

Within 20 or 25 working days of receipt (or alternative agreed timescale), the investigating officer will send you a written response.

Responses will

- address your concerns
- the conclusions, resolutions and/or agreements reached, if any
- the date by which the department will assume completion/closure of the case

You will have up to 20 working days to comment on our response and to decide whether to

accept the outcome or to pursue your complaint further. If there is disagreement, a meeting may be offered to you to discuss your concerns, or we may ask you to explain why you remain dissatisfied and what further actions you would like pursued. Please let us know at this point if you would prefer your complaint to be reviewed by a different Investigating Officer.

We will then consider:

- The reason for the dissatisfaction
- Whether this is a new complaint
- Whether there is any new information that should also be considered

If further investigations are warranted, your complaint will be forwarded for review. We will contact you to advise the approach and the timescales (this should usually be up to 25 working days or within an extended period of up to 65 working days).

If it is decided that there are no grounds for further action, we will write to inform you as to the reason.

The timescales quoted in this procedure refer to internally set timescales, statutory timescales for resolving any complaint fully, including reviews, is six months.

If you still remain unhappy with the outcome, but the Director of Adult Social Care is satisfied that all proportionate internal avenues for investigation have been pursued, we advise that you pursue your complaint with the Local Government Social Care Ombudsman and we will advise how to do so.

### **Advocacy & Support**

If you feel you need to raise a formal complaint but require support in doing so, please inform the Complaints and Information Manager who can signpost or organise advocacy, interpretation or accessibility services in relation to disabilities.

### **Mediation**

The option of mediation may be appropriate to help resolve some complaints. For example, where there has been a breakdown in relationships. If both parties agree, this option can be considered to enable an opportunity for both sides to express their views and talk through solutions.

### **Unreasonable Complainant Behaviour Policy**

We are committed to dealing with all complaints fairly and impartially and to providing a high-quality service to those who complain, however, we must be proportionate and not expose our staff to unreasonable behaviour. We do not expect staff to tolerate unacceptable behaviour including behaviour which is abusive, offensive or threatening.

On occasion it is also necessary to restrict contact between the council and a small number of complainants because of the frequency of their contact, their conduct or unreasonable expectations around contact.

If a relationship becomes unworkable the Complaints and Information Manager together with



the Director of Adults Social Care will consider the matter under the councils Management of Unreasonable Complainant Behaviour Policy.

### **Learning from complaints**

Adult Social Care review all substantiated complaints. This enables all service teams to learn from the representations that are made about their provision and improve quality of services. This insight provides us with a wider understanding of issues, ensures opportunities for improvement are realised and are used to prevent the reoccurrence of problems, where possible.

### **Publicity**

Adult Social Care will ensure that information about the complaints procedure and how to make a complaint is available to all members of the community in a format relevant to their age and/or need.

Adult Social Care will make sure that this procedure is known and understood by all staff, elected members, investigating officers and advocates.

Information, training and support will be available for staff and those who operate within this procedure, to ensure that they are able to work positively with the procedure and the cultural and specific needs of complainants.

### **Review of Policy**

This policy will be reviewed when necessary, including following the receipt of best practice guidance from the Local Government and Social Care Ombudsman. The council reserves the right to make amendments to this policy at short notice, or in any situation that warrants an immediate amendment being introduced.

### **Other related policies and information**

Management of Unreasonable Complainant Behaviour Policy  
London Borough of Barnet Corporate Complaints Procedure  
Barnet Multi Agency Adult Safeguarding Policy and Procedures