



Meeting: ADULT SOCIAL CARE AND HEALTH
DEPARTMENTAL BRIEFING

Date: 10th July 2008

Agenda items number: **5**

REPORT OF THE CUSTOMER RELATIONS MANAGER

COMPLAINTS (MEMBERS ROLE AND NEW LEGISLATION)

1. Purpose of the Report

1.1 The purpose of this report is to explain how the complaints procedure works, and the three key roles Members have in respect of the Complaints Procedure.

2. Information and Advice

2.1 The Adult Social Care and Health Department operates a three stage complaints procedure [see appendix 1]. Complainants have the right to contact the Local Government Ombudsman at any point in the procedures.

The department aims to:

- resolve complaints promptly and, wherever possible, by staff involved directly in the service
- apply an accessible clear and fair complaints procedure that meets legal requirements.

2.2 The legal context for complaints is provided by the Local Authority Social Services Act, 1970 (as amended by the NHS and Community Care Act 1990, section 50) which requires each Local Authority to establish formal procedures for considering complaints in respect of services to adults¹.

The current regulations state that people who are eligible to complain are those:

- for whom the authority has a duty to provide (or secure the provision of) a service.
- who are known to the authority as being in (or may be) in need of a service.
- who act as a representative of the person who meets the above criteria.

¹ Statutory Instrument 2006 No. 1681. Social Care, England. The Local Authority Social Services Complaints (England) Regulations 2006. Department of Health, Learning From Complaints, July 2006

2.3 On 7th May 2008, the Senior Management Team decided to extend this right to all persons who are affected by the action or inaction of the Adult Social Care and Health Department. Matters which can be complained about include:

- an unwelcome or disputed decision
- the quality or appropriateness of a service
- delay in decision making or provision of services
- delivery or non-delivery of services
- quantity, frequency, change or cost of service
- attitude or behavior of staff
- application of eligibility and assessment criteria
- the impact on an individual of the application of a local authority policy
- assessment, care management and review.

2.4 Where complaints are made about services commissioned by the department, whether through a public, voluntary or private body the matter will, with complainant's consent, be forwarded to the Provider but, if not resolved, it may be considered at Stage 2 and/or 3 of the Adult Social Care and Health complaints procedure.

2.5 Complainants may have a representative or support person to assist them throughout the process [this may not be a legal representative]. They may also ask for an independent advocate to help them to ensure that their views are heard.

2.6 The department will also seek compliments and general comments about its work from the Public.

2.7 The Role of Members

2.7.1 Members have three key roles in respect of the Complaints Procedure:

- 1) To make known the views of their constituents in general.** This may be in terms of a general comment about the work of the Department as it affects members of their constituency as a whole or as part of a specific group. Such matters would be dealt with by the Service Director with responsibility for the relevant area of service. The matter should receive a full response within 10 – 20 working days.
- 2) To make known the views of an individual named constituent.** These matters will be dealt with as either a compliment when they will be passed the relevant Manager, or as a complaint under the Social Care Complaints Procedure. [Stage 1] In the case of a complaint the named person, or his/her nominated representative, will be contacted to ensure that they wish their concerns to be dealt with a formal complaint. If they agree, the complaint will be forwarded to the relevant Departmental Representative, usually the Service Manager with responsibility for the area of service complained about. A response will be sent within 10 – 20 working days to the named or nominated person, with a copy to the Member who raised the matter.
- 3) To sit as part of an independent Complaints Review Panel considering a complaint at Stage 3 of the procedures:** The panel will have three members; two will be Independent People, one of whom will be the Chair, and the third

member may be an elected Member of the Council. [If an elected Member is not available, the third member will be a further Independent Person.]

2.7.2 All panel members will:

- have not previously been involved in the complaint nor had any contact with, or knowledge of, the complainant
- prepare for the meeting and read all the papers
- give due consideration to the complaint and desired outcomes, the findings and recommendations of the investigating officer's report, the views of the Independent Person where appointed, and the Department's Adjudication.

2.7.3 Only those members who have expressed an interest in sitting on a complaints panel and who have attended a briefing with regard to their role may undertake this work. Briefing sessions were arranged for Members in November 2007. Further sessions can be arranged by contact the Customer Relations Service.

PATI COLMAN
Customer Relations Manager

comm/DB26