

# ADULT SOCIAL CARE COMPLAINTS

## PROCEDURE

Applicable to:	All staff in Adult Social Care
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# 1 Purpose

- 1.1 These Operating Procedures set out what we will do when responding to complaints about London Borough of Lambeth adult social care services.

# 2 Scope

- 2.1 These Operating Procedures relate to adult social care complaints dealt with by London Borough of Lambeth adult social care services.

# 3 Objectives

- 3.1 The objective of these procedures is to ensure we respond to complaints as we should:
- we manage the processes well
  - our customers have a good experience of the complaints process
  - we acknowledge when we have got things wrong and do what is needed to put things right
  - we learn the lessons to avoid the same thing happening again
  - we do all we reasonably can to support the person to understand and engage in the complaints process
  - we do all we reasonably can to reach an outcome from the complaints process that is meaningful for the complainant

# 4 Making reasonable adjustments

The Equality Act 2010 says organisations exercising public functions must anticipate the needs of people with disabilities who may need to access services and make appropriate reasonable adjustments.

The government has published guidance on accessible communications. This says organisations can reduce the need for producing a range of accessible information about its services by designing initial documents with accessibility in mind. This is a cost and time-efficient way of making information instantly accessible for a larger number of people. For example, councils should aim to:

- write in plain language;
- provide information as concisely as possible; and
- design information to be as legible as possible, for example using a minimum 14-point text size.

Councils may make information about complaints and challenging decisions available in alternative formats such as Easy Read, large print, languages other than English and British Sign Language.

Councils should ensure complainants can raise concerns and challenge decisions through a range of channels. Many councils have prioritised the use of online systems as the primary means of receiving complaints from the public. This is cost effective and may meet the needs of neurodiverse service users who may find it difficult to speak to someone over the telephone or face to face. However, online systems must be accessible, and councils should also ensure complainants can easily raise complaints through other channels, such as over the telephone or directly with those providing care services. The regulations say councils must accept complaints made orally.

## **5 A rights-based approach to complaints**

Adult care services provide a key role in protecting and promoting human rights, by ensuring that individuals are supported to live with dignity, autonomy, and participate in their family lives, communities, faiths, and cultures. When things go wrong with services, it can have a significant impact on someone's rights.

Rights-based issues will sometimes be an explicit part of a complaint, with individuals talking about their human rights being 'breached' by a local council or service. More commonly though, rights-based issues will be an implicit part of complaints, expressed around principles of fairness, respect, equality, dignity, and autonomy (the FREDA principles).

Complaint handlers are not expected to have technical knowledge of human rights law, and a complaints process cannot establish whether there has been a 'breach' of someone's human rights. However, it is good practice for councils to take a rights-based approach to complaints handling, especially in a service that is closely linked to human rights protection.

## 6 Adult Social Care Complaint Process – Schedule of Communication



## 7 Making reasonable adjustments

### 7.1 Oral complaints resolved before the end of the next working day

If a member of staff receives a complaint by telephone or in person, they must take the following steps:

- Confirm details of complainant, service user, complaint and desired outcome
- Pass to the relevant Team Manager or equivalent for attention.
- That Team Manager or equivalent will consider whether the issues can be resolved by the end of the next working day

If yes:

- Team Manager or equivalent will and respond. The response must be in writing, but if there is a more appropriate way of responding to the person then that may be used. This will be the end of the complaints process.
- Team Manager or equivalent to make a record of the issues of concern and record details of complaint and response on a MOSAIC case note.

If no, or in **all cases where the complaint is in written form** (whether that be by letter, fax, email or any other means):

- The Team Manager is now in the Delegated Complaints Manager role for this matter and must take the matter forward under the following procedure.

### 7.2 Initial screening and risk assessment

Initial complaint screening is undertaken by the Delegated Complaints Manager before the acknowledgement is sent. It allows us to

- Review that the matter is one to be dealt with under this procedure. The Adult Social Care Complaints Framework sets out the scope of what is to be covered by these procedures
- To look at the significance or potential significance of the complaint for the complainant and for the organisation

Complaint screening gives an indication of the way in which we should deal with the complaint using the initial risk assessment tool. See Appendix A.

The assessment tool gives a useful guide but should not be followed slavishly. Where appropriate, the Delegated Responsible Person may determine that professional judgement will lead to applying a different outcome to that indicated by the tool.

The complaint risk assessment tool gives us four alternative ways of dealing with the complaint

- Low risk (green)
- Moderate risk (light amber)
- High risk (dark amber)
- Severe risk (red)

**Complaints are dealt with progressively in ways that are increasingly formal and independent. It may be that, following the risk assessment, the person in the Delegated Complaints Manager role will need to escalate the matter. They will inform the Delegated Responsible Person of this who will review the matter and escalate if necessary.**

All joint complaints with Health involvement will be categorised as at least High Risk.

It may be appropriate to review the risk assessment of a complaint during the course of the investigation.

### **7.3 Matters not being taken forward as a complaint**

Where initial screening has identified that the matter is not to be taken forward under these procedures, the Delegated Complaints Manager should

- Confirm this decision with the Responsible Manager
- Notify the complainant in writing and state the reason for the decision
- Make a record of the decision, the reasons for it, and the notification given to the complainant
- Consider if there are other processes that can be used to address the matter

### **7.4 Complaints that involve more than one team, service or organisation**

In the first instance, responsibility for responding to a complaint will sit within the area of business that the complaint relates to. Where a complaint cuts across more than one area of business then the principle is that the response to the complaint should be led by the area of business with the most relevant involvement, and the other teams or services involved will support delivering a timely, comprehensive response.

However, transfer of responsibility for a complaint within Lambeth Adult Social Care is by negotiation. For example, if Team A receive a complaint and believe it would be better dealt with by Team B, responsibility for that complaint remains with Team A until they have successfully negotiated the transfer and Team B has agreed to take on responsibility.

Some complaints will be about issues that will involve other parts of Lambeth Council, which may involve linking the adult social care complaints response with responses under the Children's Social Care complaints process and / or the Corporate Complaints Process. The Delegated

Complaints Manager will work with the relevant colleagues elsewhere in the Council to

- agree who will take the lead in co-ordinating the handling of the complaint and communicating with the complainant
- provide colleagues with any information or records requested which are relevant to the consideration of the complaint; and
- attend, or ensure adult social care is represented at, any meeting reasonably required in connection with the consideration of the complaint.

Some complaints will be about issues that will involve other social care or health services. Where there is a complaint about care services that includes concerns about services delivered by health bodies. Regulations set out a 'Duty to Cooperate, when handling the complaints' The co-ordination of the complaints handling process and of the response rests with the person in the Delegated Complaints Manager role of each organisation involved. They will

- agree which of the two bodies should take the lead in co-ordinating the handling of the complaint and communicating with the complainant
- provide the other organisation with any information or records requested which are relevant to the consideration of the complaint; and
- attend, or ensure their organisation is represented at, any meeting reasonably required in connection with the consideration of the complaint.

When Adult Social Care receives a complaint that it believes should probably be dealt with by another organisation covered by the Regulations, the complaint is deemed to have been made to the other organisation and the complaint should be passed on as soon as is reasonably practicable.

Where a complaint is passed from the Corporate Complaints Team to Adult Social Care Complaints, and it is determined that the complaint 'belongs' to another organisation, ASC return this to Corporate Complaints Team who should ensure the complainant is made aware that has passed their complaint on to the relevant organisation

Where a complaint comes directly to ASC, and it is determined that the complaint 'belongs' to another organisation, the individual receiving the complaint, is responsible for ensuring the complainant is made aware that they have passed their complaint on to the relevant organisation. This is usually best done by forwarding the complaint to the relevant organisation's own complaint department and including the complainant in the communication response.

The organisation to which the complaint is passed should acknowledge receipt of the complaint in the usual way.

## **7.5 Identifying the Delegated Responsible Person and Delegated Complaints Manager**

Who holds the delegated roles will depend upon the outcome of the risk assessment, as per the table below. The Delegated Responsible Person and the Delegated Complaints Manager may themselves delegate actions to others where it is reasonable, but the responsibility for the work will remain with them.

The job titles used are those for the assessment and care & support planning teams, and should be taken to apply to equivalent roles in other teams and services. Equivalence should be determined by nature of role and level of responsibility rather than based on pay scales or grading.

The Delegated Responsible Person is responsible for ensuring organisational learning takes place irrespective of whether or not the complaint is upheld.

### **Complaints Management Scheme of Delegation**

#### **Low risk complaint**

Delegated Responsible Person is usually a Team Manager

Delegated Complaints Manager is usually a Practitioner Manager

#### **Moderate Risk Complaint**

Delegated Responsible Person is usually a Head of Service

Delegated Complaints Manager is usually a Team Manager

#### **High Risk Complaint**

Delegated Responsible Person is usually an Assistance Director

Delegated Complaints Manager is usually a Head of Service

#### **Severe Risk Complaint**

Delegated Responsible Person is usually a Director of Adult Social Care

Delegated Complaints Manager is usually an Assistance Director

## **7.6 Acknowledging and discussing the complaint**

The designated Complaints Manager must acknowledge the complaint within 3 working days of the councils receipt of the complaint (not when it was passes to your department. This acknowledgement can be by phone or letter & the method of acknowledgement must be logged within MOSAIC

work step. The Auto acknowledgement from the email accounts does not count as an official acknowledgement.

The acknowledgement of the complaint will include an offer by the Delegated Complaints Manager to discuss the complaint with the complainant.

The Complainant must be told who will be handling their complaint, and provided with a timeframe for feedback.

Discussion with the complainant needs to consider:

- specific details of the complaint
- the desired outcome
- whether advocacy is required, mediation should be suggested, or some other form of support should be considered
- Who will be taking on the Delegated Responsible Person and Delegated Complaint Manager roles in dealing with the complaint
- Who is responsible for investigating the complaint
- Timescales for completion of investigation and written response

When setting and applying timescales, account should be taken that some people take longer to understand and process information than others. The Delegated Responsible Person should take reasonable steps to find out if this is an issue for the complainant and, if so, make reasonable adjustments to the usual timescales or revise any timescales already set.

Any agreed deadline for completing the and providing outcome of the compliant investigation should be diarised by the Responsible Complaint Manager, If for any reason, the compliant response is delayed, the complainant should be informed of the delay, and new deadline confirmed with them.

Where a complaint covers services arranged by one or more health services as well as Adult Social Care, the CAP will be agreed with colleagues from those health services.

Where the subject of a complaint is complex in nature or relates to a wide-ranging concern, the member of staff in the Delegated Responsible Person role should consider seeking advice from Legal Services.

A template for an acknowledgement can be found in Appendix D, along with other templates. A schedule for which template to use can be found in appendix C.

## **5.7 Timescales**

There are no specified timescales in the Regulations for an investigation, other than to identify that the complaint must be acknowledged within 3 days. The Local Government & Social Care Ombudsman suggests that a

complaint should be completed within 20 working days should be the target, but the response should be proportionate and aim to resolve the situation. For this reason we base our response timeframe on risk and complexity. . However, the timescale for each specific complaint should be negotiated with the complainant. We think it reasonable for it to be concluded and a written response sent by the Investigator in the suggested timescales in the table below.

#### **Low Level Risk**

The investigator is the Delegated Complaint Manager  
The response is sent from the Delegated Responsible Person  
Response time is usually 20-25 working days

#### **Moderate Level Risk**

The investigator is the Delegated Complaint Manager  
The response is usually sent from the Delegated Responsible Person  
Response time is usually 20-25 working days

#### **High Level Risk**

The investigator is the Delegated Complaint Manager  
The response is sent from the Delegated Responsible Person  
Response time is usually 25 working days but could be up to 60 working days

#### **Severe Level Risk**

The investigator is appointed by the Delegated Complaint Manager  
The response is sent from the Senior Responsible Person  
Response time is up to 60 working days

For a Stage 2 complaint, we use the same framework for response time, but also have to make sure we respond within the complaint's regulations timeframe of no later than 6 months after the issue was first raised.

<https://www.legislation.gov.uk/ukxi/2009/309/regulation/14/made>

A template for an acknowledgement can be found in Appendix C, along with other suggested templates.

## **7.8 Ensuring appropriate independence**

When investigating complaints we aim to have an appropriate degree of independence in the carrying out of the investigation. Determining how this is done is judged case-by-case.

Each case should be judged on its merits. We would want to avoid having an investigating officer who has had extensive direct involvement in the situation under investigation, but in most instances this would not preclude a Team Manager or Head of Service investigating a complaint arising in their service area.

If there are particular factors in a case that lead to a strong possibility of actual or perceived conflict of interest, consideration should be given to selecting an investigating officer from another part of the organisation. However, this should be balanced against the desirability of having an investigating officer with familiarity with the type of work, roles and responsibilities relevant to the matter being investigated. In most instances there will not be a difficulty with having the investigating officer drawn from within the same service area, such as a Team Manager from elsewhere who is managed by the same Head of Service.

There will be circumstances where it will be desirable to appoint a person outside of Lambeth Adult Social Care, or from outside the local authority, to undertake the investigation.

## **7.9 Responses to complaints**

The person investigating the complaint must gain a full understanding of the complaint and in order to do so will gather information by:

- interviewing the complainant, carers (if appropriate), staff and anyone else who can assist
- looking at relevant records and documents

If the complaint is being made on behalf of a service user they should be seen to confirm whether the complaint reflects their wishes and views. If they are not seen then an explanation for not doing so should be included in the report.

As soon as reasonably practicable after completing the consideration of the complaint the department must send the complainant a written response, signed by the person as set out in the Complaints Manager Scheme of Delegation table. , unless this is not suitable or the complaint is about this manager.

The signing-off process involves writing to the complainant with:

- A description of the complaint
- An explanation of how the complaint has been considered. For clarity, “considered” is the language used in the Regulations. In Lambeth Adult Social Care, we take this to mean “investigated”.
- The conclusions reached in relation to the complaint, whether the complaint is upheld or not on the basis of the information
- An apology where appropriate
- Confirmation as to whether the department is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken. Recommendations for service learning and improvement

The delegated Complaints Manager will consider whether it would be useful to offer the complainant a meeting, or the complainant may request a meeting. The purpose of a meeting will be to:

- discuss the report and any recommendations
- consider any action/ remedy to be taken to
  - resolve the complaint
  - improve practice

The delegated Complaints Manager will facilitate this meeting. If a meeting is not suitable for the complaint or is not agreeable to the complainant then the adjudication will be carried out in writing and sent to the complainant.

## **7.10 Stage 2 Complaints**

If the complainant is not happy with the outcome of the complaint, they can appeal the decision and outcome of the response. Stage 2 complaint will follow the same process as described above but will escalate to the delegated Responsible Person to respond as identified in the Scheme of Delegation

**N.B** At the end of a stage 2 complaint response, details of the complainant's right to take their complaint to the Local Government & Social Care Ombudsman must be provided

## **7.11 Persistent and unreasonably persistent complainants**

From time to time we will come across complainants who seek to raise a number of complaints or who become unreasonable in their conduct or expectations around contact. Whilst every effort should be made to address objectively any concerns that are raised, we must also seek to be proportionate and not to expose our staff to unreasonable situations.

Persistent and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their or other people's, complaints.

We distinguish between 'persistent' complainants and unreasonably persistent complainants. People bringing complaints may be 'persistent' because they feel the organisation has not dealt with their concern and are not prepared to leave the matter there. Almost all complainants see themselves as pursuing justified complaints.

For example, criticising a procedure when the standards set out are not met is not unreasonable. If our procedures are working properly, then responding to expressions of dissatisfaction and requests for information should not cause particular problems.

However, some complainants may have justified complaints but may pursue them in inappropriate ways. Others may pursue complaints which appear to have no substance or which have already been investigated and determined. Their contacts may be amicable but still place heavy demands on staff time, or they may be emotionally charged and distressing for all involved.

Situations can escalate, and sometimes complainants become abusive, offensive, threatening or otherwise behave unacceptably. In response an organisation may have to restrict access to its premises or staff, or accordance with its own procedures protecting their staff from harassment and harm.

Behaviour which is unreasonable may include one or two isolated incidents, as well as unreasonably persistent behaviour, which is usually a build-up of incidents or behaviour over a longer period.

Appendix B sets out

- Examples of unreasonable actions and behaviours
- Considerations prior to taking action regarding an unreasonable persistent complainant

When the Delegated Responsible Manager believes the relationship with a complainant has become unworkable

- the Delegated Responsible Person will raise the matter with the Senior Complaints Manager and legal department for review
- The Senior Complaints Manager will review the matter and, if appropriate, will refer the matter with recommendations for action to the Senior Responsible Person
- The Senior Responsible Person will make a decision on actions to be taken and the review date for any of these actions
- At each of these stages, all those involved will have due regard for the issues identified in Appendix B.

### *Options for action*

Any actions taken should be proportionate to the nature and frequency of the complainant's current contacts. The following options may be suitable, taking the complainant's behaviour and circumstances into account. The objective is to manage the complainant's unreasonable behaviour in such a way that their complaint can be concluded quickly, without further distractions. Options include:

- Placing limits on the number and duration of contacts with staff per week or month.
- Offering a restricted time slot for necessary calls.
- Limiting the complainant to one medium of contact (telephone, letter, email etc).

- Requiring the complainant to communicate only with one named member of staff.
- Requiring any personal contacts to take place in the presence of a witness and in a suitable location.
- Refusing to register and process further complaints about the same matter.
- Logging the complaint issue but not processing as further complaint

Where a decision on the complaint has been made, you can tell the complainant that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information. A designated officer should be identified who will read future correspondence.

### *Communicating the decision*

The Designated Responsible Person will ensure the complainant is written to, and this will set out:

- why the decision has been taken
- what it means for his or her contacts with the organisation
- how long any limits will last, and
- what the complainant can do to have the decision reviewed.

### *Record keeping*

Adequate records should be kept to show:

- when a decision is taken not to apply this framework when a member of staff asks for this to be done
- when a decision is taken to make an exception to the framework once it has been applied
- when a decision is taken not to put a further complaint from this complainant through your complaints procedure for any reason

### *Dealing with further correspondence*

When a decision is taken not to respond to further correspondence, make sure any further letters, faxes or emails from the complainant are checked to pick up any significant new information.

When complaints about new issues are made, these should be treated on their merits. You should consider whether any restrictions previously applied are still appropriate and necessary.

### *Reviewing decisions to restrict access*

When imposing a restriction on access, you should have a specified review date. Limits should be lifted and relationships returned to normal unless there are good grounds to extend them.

You should tell the complainant of the outcome of your review. If limits are to continue, explain your reasons and state when the limits will next be reviewed.

### *Referring complaints to the Local Government and Social Care Ombudsman (LGSCO)*

Relations between organisations and complainants sometimes break down badly while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances there may be nothing to gain from following through all stages of the organisation's complaints procedure. In these circumstances, the LGSCO may, exceptionally, be prepared to consider complaints before complaints procedures have been exhausted.

A complainant who has been treated as behaving unreasonably may make a complaint to the LGSCO about it.

## **7.12 Mediation**

For some representations the option of mediation may be appropriate. For example where there has been a breakdown in the relationship between the service and the service user. In these circumstances mediation is an option. The Delegated Complaints Manager will make the necessary arrangements, after gaining the agreement of both parties. Mediation is not possible without the agreement of those concerned.

Mediation by an experienced mediator will allow both sides to:

- express their own views,
- think about how to put things right
- come together to reach a solution

## **7.13 Local Government & Social Care Ombudsman**

Our responses to a complaint must include information about people's right to take the matter to the Local Government & Social Care Ombudsman if they remain dissatisfied after Stage 2 response.

If a matter that has been dealt with through our complaints processes is referred to the LGSCO, the LGSCO will in the first instance contact the Corporate Complaints Team. The Corporate Complaints team will pass this to the relevant Head of Service to take the matter forward. If they are unable to identify the relevant Head of Service they will pass the matter to the Senior Complaints Manager for adult social care.

The relevant Head of Service will oversee the response to the LGSCO within the required timescale. They will consider if the matter requires escalation.

Where the LGSCO makes a finding of maladministration, the relevant Head of Service will inform the Senior Complaints Manager and the Senior Responsible Person. The Senior Responsible Person will inform the lead Member(s) for Adult Social Care.

#### **7.14 Remedies**

The Complaints Manager will determine the most appropriate remedies, based on the nature of the complaint and outcome of the investigation. Remedies may include:

- A commitment to address specific areas of service improvement
- A written or face-to-face apology to the complainant
- An opportunity for the complainant to meet with staff to share experiences so that learning can be facilitated
- A solution which complainant has identified themselves
- A full review including consideration of a statutory framework in which to do this e.g. Learning Disabilities Mortality Review (LeDER)

#### **7.15 Recording**

Adult social care complaints must be recorded appropriately on the client records on the adult social care recording systems (currently MOSAIC).

Where complaints do not relate to Adult Social Care, these will be dealt with by the relevant department and must be recorded on the corporate complaints system (currently iCasework).

## **7.16 Representations from Members of Parliament (MP) and Councillors**

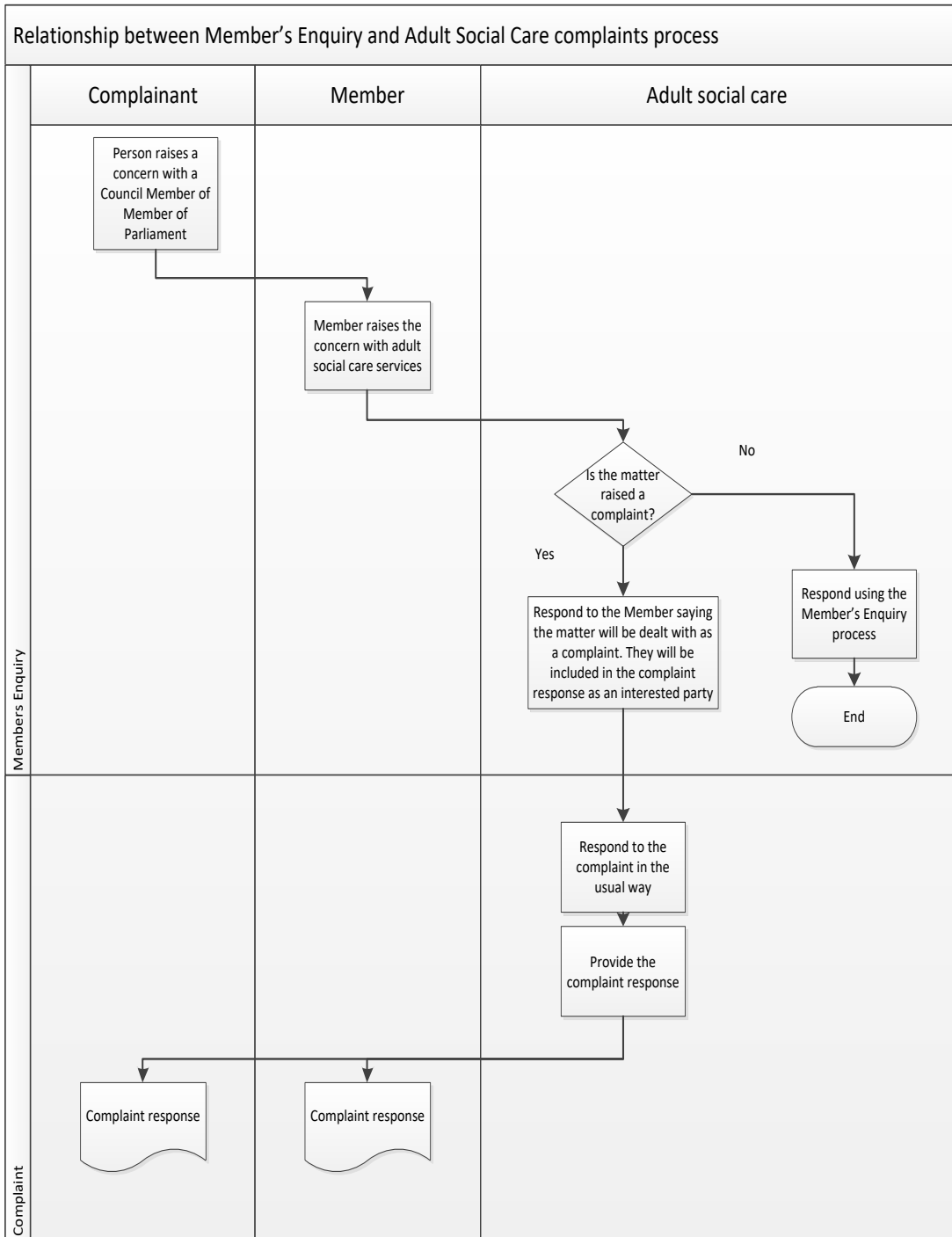
Complainants may take their concerns to their MP or Councillor, and these are often referred to as “Member’s Enquiries”. Where appropriate it would be usual practice to refer them to the statutory complaints process. The person dealing with the Member’s Enquiry must check whether the subject matter constitutes a complaint under the criteria listed above.

Where the issue that has led to the Member’s Enquiry is to be taken forward through the adult social care complaints process, the usual process will be

- The decision to use the complaints process is the resolution to the Member’s Enquiry
- As the person has chosen to make a complaint via a Councillor or Member of Parliament, then that Member should be treated as an interested party to that complaint.
- The Responsible Person dealing with the complaint shall inform the Member of any grounds for not disclosing information about the complaint and the reasons for it

MPs and Councillors have certain rights to access information when they are acting as a representative of residents. Any personal information that is disclosed is provided for the limited purpose of assisting the data subject and cannot be used for any other purpose. We would normally assume consent of the resident if they have approached the councillor directly asking for help. However, where the data in question is of a particularly sensitive kind it may be prudent to seek the signed consent of the data subject.

Complaints responders should be mindful that people may refer their representations to MPs or Councillors in order to attempt to obtain services more quickly and that, if not handled correctly, this could have implications for fair and equal access for all service users.



### 7.17 Learning

It is a vital part of the process that services learn from the representations that are made about their provision. The process that addresses complaints will identify any areas for improvement or learning and will make suggestions for the actions that will be taken. This will be addressed in the response. Where necessary, action plans will be drawn up and responsibilities assigned.

Responsibility for ensuring actions are taken to implement the learning from individual complaints sits with the Delegated Responsible Person.

The Strategic Complaints Manager will ensure there are process in place to give assurance across the service that we are acting on the learning from complaints. This may be via:

- Quarterly reporting to the Performance Board
- Adult Social Care quality assurance framework
- Adult Social Care Managers and Teams Meetings

## **7.18 Annual Report**

The Regulations require an annual report on adult social care complaints. The Senior Complaints Manager will produce a draft report for consideration by the Senior Responsible Person and the lead Member for Adult Social Care. This report will be sent for consideration to Corporate Committee, and will be publicised in line with the requirements in the Regulations.

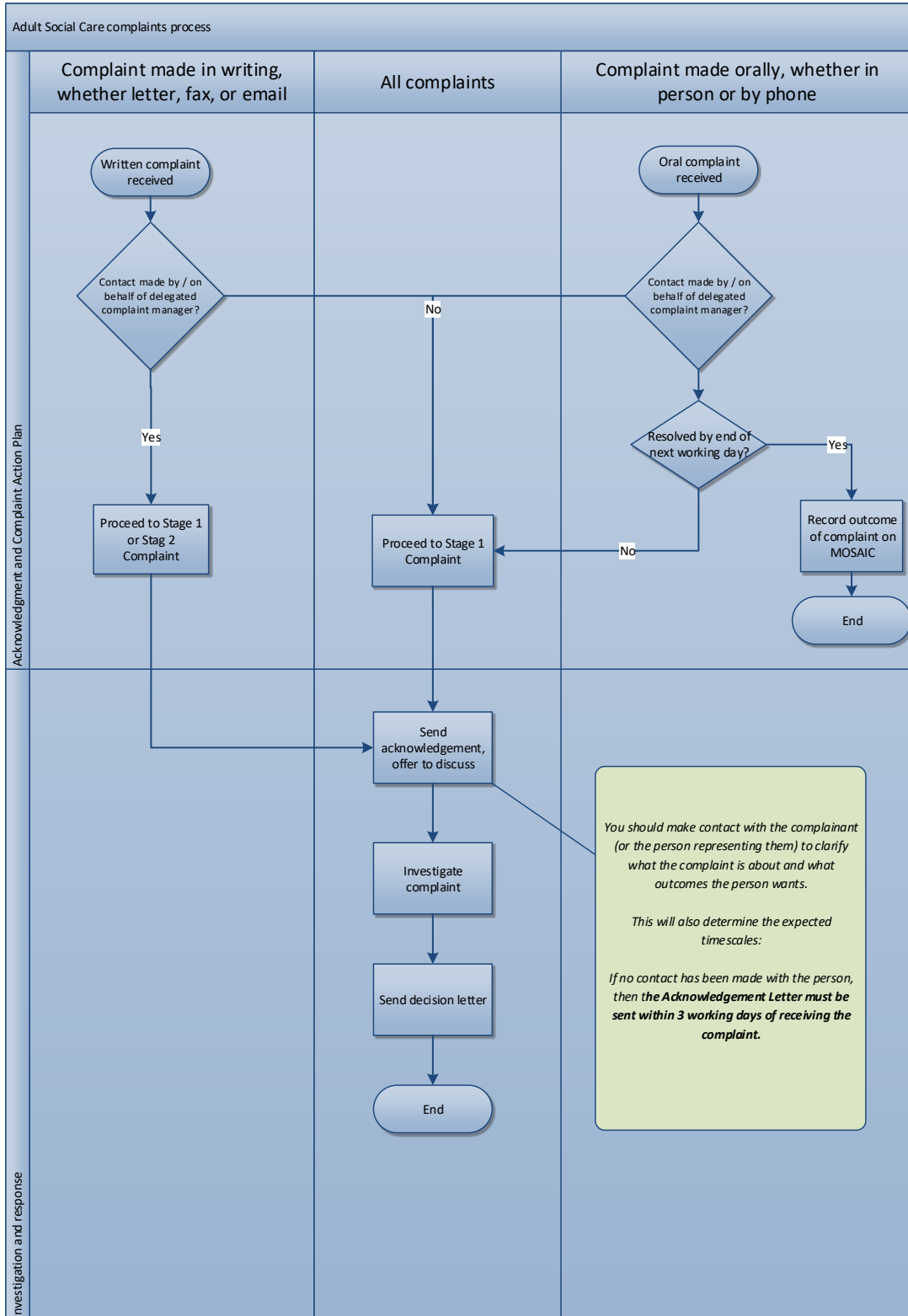
## **8. Monitoring Evaluation and Review**

8.1 Regular monitoring of complaints will be undertaken by the Senior Complaints Manager.

The Senior Complaints Manager will report each quarter to the Senior Responsible Person aggregated information on

- Complaints received in the period
  - The number of complaints received
  - The types of complaint
  - Which services they related to
- Complaints completed in the period
  - Which services they related to
  - The outcomes
  - Whether the timescales in the complaints plan were met
  - Any non-personal information about complainants that will help shape and improve services in the future
- Matters escalated to the LGSCO
  - The number and nature of issues escalated to the LGSCO in the period
  - The number and nature of any decisions by the LGSCO in the period

# 9 Complaints Process Flowchart



## APPENDIX A: RISK ASSESSMENT

Ranking of risks relating to complaints brings its own risks. By using language such as “Negligible”, “Low” or “Moderate”, we risk appearing not to take seriously matters that will be very serious to the complainant, people important to them, and to the wider public. That is not our intention, and the following points help clarify matters:

- This risk assessment process is about the local authority determining the best way to respond to a complaint, not how seriously we take the matter. We take all complaints seriously.
- Complaints falling within the adult social care complaints process cover a wide range of issues, and it would not be practical or right for us to respond to all of them in exactly the same way. Having this framework helps people understand what they can expect from us and helps our staff to do the right thing for the circumstances they are dealing with.
- On first sight, some people might not think it right that a risk assessment process like this should take account of things like risk to the local authority. We would hope that on reflection it can be seen that this is a factor that should be taken into account when, for example, determining the seniority of the person responding to a complaint. The wider public would expect us to do so, and it is in line with what almost any organisation would do so, so we would rather have a transparent process about this.
- The approach that we use is in line with that recommended by the Department of Health in “Listening, Responding, Improving: A guide to better customer care” (Department of Health, 2009)

The risk assessment has three steps:

Step 1: Decide how serious the issue is

<b>Ranking</b>	<b>Score</b>	<b>Description</b>
Negligible	1	Unsatisfactory service or experience not directly related to care. No impact or risk to provision of care.
Minor	2	Unsatisfactory service or experience related to care, usually a single resolvable issue. Minimal impact and relative minimal risk to the provision of care or the service. No real risk of litigation.
Moderate	3	Service or experience below reasonable expectations in several ways, but not causing lasting problems. Has potential to impact on service provision. Some potential for litigation.
Major	4	Significant issues regarding standards, quality of care and safeguarding of or denial of rights. Complaints with clear quality

		assurance or risk management issues that may cause lasting problems for the organisation, and so require investigation. Possibility of litigation and adverse local publicity.
Catastrophic	5	Serious issues that may cause long-term damage, such as grossly substandard care, professional misconduct or death. Will require immediate and in-depth investigation. May involve serious safety issues. A high probability of litigation and strong possibility of adverse national publicity.

Step 2: Consider the likelihood of reoccurrence

Ranking	Score	Description
Rare	1	Isolated or one-off – slight or vague connection to service provision
Unlikely	2	Unusual, but may have happened before
Possible	3	Happens from time-to-time, but not frequent or regular
Likely	4	Will probably occur several times a year
Almost Certain	5	Recurring and frequent, predictable

Step 3: Multiply these two scores, to determine the overall risk level for each risk

Impact	Likelihood				
	Rare (1)	Unlikely (2)	Possible (3)	Likely (4)	Almost certain (5)
<b>Catastrophic (5)</b>	5	10	15	20	25
<b>Major (4)</b>	4	8	12	16	20
<b>Moderate (3)</b>	3	6	9	12	15
<b>Minor (2)</b>	2	4	6	8	10
<b>Negligible (1)</b>	1	2	3	4	5

Green	1 - 3	Low risk
Light Amber	4 - 6	Moderate risk
Dark Amber	8 - 12	High risk
Red	15 - 25	Severe risk

Review the overall level of risk for appropriateness. Professional judgement can override the use of the assessment tool.

#### Examples of different types of incidents

Low risk	(simple, non-complex issues)	<ul style="list-style-type: none"> <li>• Event resulting in minor inconvenience or discomfort, such as missed, delayed or cancelled appointment which has caused inconvenience but no other harm</li> <li>• Lack of information or information not in the appropriate format given at any stage in the adult care process.</li> <li>• Access issues with any of our services.</li> <li>• Records missing</li> </ul>
Moderate risk	(several issues relating to a short period of care)	<ul style="list-style-type: none"> <li>• Event resulting in moderate harm such as Delayed assessment or putting in place care and support</li> <li>• Failure to meet care needs</li> <li>• Loss of property</li> <li>• Miscommunication or misinformation</li> <li>• Staff attitude or communication</li> </ul>
High risk	(multiple issues relating to a longer period of care, often involving more than one organisation or individual)	<ul style="list-style-type: none"> <li>• As per moderate list, but involving more than one organisation or individual</li> <li>• Event resulting in serious individual harm</li> </ul>
Severe risk	(multiple issues relating to serious failures, causing serious harm)	<ul style="list-style-type: none"> <li>• Events resulting in serious harm or death</li> <li>• Gross professional misconduct</li> <li>• Serious abuse or neglect</li> <li>• Criminal offence (e.g. assault)</li> </ul>

## **APPENDIX B: IDENTIFYING AND RESPONDING TO UNREASONABLY PERSISTENT COMPLAINANTS**

### *Examples of unreasonable actions and behaviours include*

These are some of the actions and behaviours which can be problematic. Single incidents may be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is time consuming to manage and interferes with proper consideration of the complaint.

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Covertly recording meetings and conversations.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various organisations.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

### *Considerations prior to taking action*

If the complaint has already been responded to, considerations should be given to the option of ending all communication with the complainant on the issue and, where appropriate, referring the complainant to the Ombudsman.

If the complaint is still under consideration steps may be necessary to manage the situation.

The decision to designate someone's behaviour as unreasonable, and restrict their access to local authority officers could have serious consequences for the individual.

The Delegated Responsible Manager and Senior Complaints Manager should be satisfied that:

- the complaint is being or has been investigated properly
- any decision reached on it is the right one
- communications with the complainant have been adequate, and
- the complainant is not now providing any significant new information that might affect the organisation's view on the complaint.

When it is necessary to designate the complainant as behaving unreasonably, some of following steps may assist.

- Offering the complainant a meeting with an officer of appropriate seniority to explore scope for a resolution of the complaint and explain why their current behaviour is seen as unreasonable.
- Sharing the adult social care complaints framework and procedures with the complainant and warning them that restrictive actions may need to be applied if their behaviour continues.
- Setting up a strategy meeting to agree a cross-departmental approach.
- Appointing a key officer to coordinate the organisation's response(s), so that all communication between the complainant and local authority officers is via this key officer. Limitations may be set on the frequency of communication from this local authority officer.
- Helping the complainant to find a suitable independent advocate if appropriate

## APPENDIX C: TEMPLATES FOR COMPLAINTS CORRESPONDENCE

### Oral complaints

#### Template 1: Oral complaint outcome response – contact made and satisfactory resolution agreed by next working day

Dear **[complainant, or their representative]**

Re: Your complaint **[if writing to representative, add: regarding [complainant name, address]]**

Thank you for speaking to **[name of the person they spoke to]** on **[date]** about your concerns regarding the service you have received from London Borough of Lambeth adult social care.

I understand that you are concerned about **[summary of the issues]**

We discussed your concerns on **[date]** and we agreed the following actions to resolve your complaint.

#### Agreed resolution

As a result of your complaint we have taken the following action

- [action one]
- [action two]
- [action three etc]

The Council is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken.

I am sorry you had cause to complain but I would like to thank you for bringing these matters to our attention. We welcome comments from people who use our services and aim to use these to improve our services.

If you are not fully satisfied with the way we have handled your complaint you have the right to make a complaint in writing.

A written complaint can either be emailed to us at [Adultsocialcarecomplaints@lambeth.gov.uk](mailto:Adultsocialcarecomplaints@lambeth.gov.uk)

Or sent to

Adult Social Care complaints

5<sup>th</sup> floor Civic Centre, 6 Brixton Hill, Lambeth, SW2 1EG

Yours sincerely,

[name and contact details]

**Template 2: Acknowledgement letter for a complaint made orally which has not been resolved by the end of the next working day**

Dear **[complainant, or their representative]**

Re: Your **[Stage 1/ Stage 2 -delete as appropriate]** complaint **[if writing to representative, add: regarding [complainant name, address]]**

Thank you for speaking to **[name of the person they spoke to]** on **[date complaint received]** about your concerns regarding the service you have received from London Borough of Lambeth adult social care. I was very sorry to learn of the difficulties that you have brought to our attention.

To confirm our discussion of **[date]**, the following issues that you have raised will be investigated under our complaints process.

**[Insert List of issues and the expected outcomes]**

Please be assured that we take all concerns and complaints seriously and a full investigation will be carried out. Your complaint has been passed to **[name and role of person undertaking the investigation]**, who will lead the investigation and prepare a written response on behalf of the Council.

We aim to complete the investigation and provide you with a full reply within **[XXX]** working days. We expect to send your letter by **[insert date month year]**.

Sometimes, those who have had cause to make a complaint may feel anxious about any impact that this might have on any care provided to them or their family by or on behalf of the Council. Please know that your care services will not in any way be adversely affected by raising concerns. However, if you have any anxieties about this please contact me and I will do my best to help.

**\* [IF THE COMPLAINT IS BEING MADE BY A REPRESENTATIVE AND WE HAVE NOT HAD EVIDENCE OF CONSENT OF THE PERSON YOU WILL NEED TO ADD THE PARAGRAPH BELOW]**

As you are making this complaint on behalf of someone else, before we will be able to provide you with details of our findings we will require the consent of the person on whose behalf you are making the complaint. I should be grateful if you would please arrange for the enclosed consent form to be signed and returned in the enclosed envelope.

If **[insert name of Adult the complaint relates too]** is not able to provide consent please provide details of about this and, if relevant, evidence of power of attorney or similar arrangements.

Please find enclosed a copy of the Council's leaflet detailing our adult social care complaint management procedure.

If you have any concerns in relation to this complaint before you receive your final response, you are welcome to me. Thank you again for bringing your concerns to our attention.

Yours sincerely,

## Written Complaints

### Template 3: Acknowledgement letter for a complaint made in writing or electronically

If a complaint is made in writing or electronically, you must acknowledge the complaint no later than 3 working days after receipt

- The acknowledgement can be orally or in writing
- The template below can be used for a written acknowledgement, or as a guide for what to cover in an acknowledgement made orally

Dear **[complainant, or their representative]**

Re: Your **[Stage 1/ Stage 2 -delete as appropriate]** complaint **[if writing to representative, add: regarding [complainant name, address]]**

Thank you for your [letter / email / fax] of **[date]** sent to [name] about your concerns regarding the service you have received from London Borough of Lambeth adult social care.

I was very sorry to learn of the difficulties that you have brought to my attention.

I understand that you are concerned about **[summary of the issues]**

I would like to discuss with you how we shall take your complaint forward. I would be happy to have this discussion in person, by telephone or by email. The matters I want to discuss are

- What we will do to investigate your complaint
- What the outcomes are that you hope for
- How long we anticipate the investigation will take
- When you are likely to receive our response to your complaint

I will try to make contact with you to discuss these issues. You can also contact me directly. My contact details are: **[add your contact number and email address]**

Sometimes, those who have had cause to make a complaint may feel anxious about any impact that this might have on any care provided to them or their family by or on behalf of the Council. Please know that your care services will not in any way be adversely affected by raising concerns. However, if you have any anxieties about this please contact me and I will do my best to help.

**\* [IF THE COMPLAINT IS BEING MADE BY A REPRESENTATIVE AND WE HAVE NOT HAD EVIDENCE OF CONSENT OF THE PERSON YOU WILL NEED TO ADD THE PARAGRAPH BELOW]**

As you are making this complaint on behalf of someone else, before we will be able to provide you with details of our findings we will require the consent of the person on whose behalf you are making the complaint. I should be grateful if you would please arrange for the enclosed consent form to be signed and returned in the enclosed envelope.

If **[insert name of Adult the complaint relates too]** is not able to provide consent please provide details of about this and, if relevant, evidence of power of attorney or similar arrangements.

Please find enclosed a copy of the Council's leaflet detailing our adult social care complaint management procedure.

If you have any concerns in relation to this complaint before you receive your final response, you are welcome to contact me. Thank you again for bringing your concerns to our attention.

Yours sincerely,

## Template 4: Confirmation of complaint discussion

Dear **[complainant, or their representative]**

Re: Your **[Stage 1/ Stage 2 -delete as appropriate]** complaint *[if writing to representative, add: regarding [complainant name, address]]*

Thank you for speaking to me on **[date ]** to discuss how we will take forward the investigation in to your concerns regarding the service you have received from London Borough of Lambeth adult social care.

To confirm our discussion, the following issues that you have raised will be investigated under our complaints process.

**[List of issues and the expected outcomes]**

Please be assured that we take all concerns and complaints seriously and a full investigation will be carried out. Your complaint has been passed to **[name and role of person undertaking the investigation]**, who will lead the investigation and prepare a written response on behalf of the Council.

We will strive to complete the investigation and provide you with a full reply within **[XXX]** working days. We expect to send your letter by **[insert date month year]**.

Sometimes, those who have had cause to make a complaint may feel anxious about any impact that this might have on any care provided to them or their family by or on behalf of the Council. Please know that your care services will not in any way be adversely affected by raising concerns. However, if you have any anxieties about this please contact me and I will do my best to help.

**\* [IF THE COMPLAINT IS BEING MADE BY A REPRESENTATIVE AND WE HAVE NOT HAD EVIDENCE OF CONSENT OF THE PERSON YOU WILL NEED TO ADD THE PARAGRAPH BELOW]**

As you are making this complaint on behalf of someone else, before we will be able to provide you with details of our findings we will require the consent of the person on whose behalf you are making the complaint. I should be grateful if you would please arrange for the enclosed consent form to be signed and returned in the enclosed envelope.

If **[insert name of Adult the complaint relates too]** is not able to provide consent please provide details of about this and, if relevant, evidence of power of attorney or similar arrangements.

Please find enclosed a copy of the Council's leaflet detailing our adult social care complaint management procedure.

If you have any concerns in relation to this complaint before you receive your final response, you are welcome to me. Thank you again for bringing your concerns to our attention.

Yours sincerely,

## Template 5: Confirmation of complaint where contact with person has not been possible

Points to remember:

- The acknowledgement of the complaint must have included an offer to discuss with the complainant how their complaint will be taken forward
- If the complainant does not accept that offer, the local authority must determine the response period and the complainant in writing

Dear **[complainant, or their representative]**

Re: Your **[Stage 1/ Stage 2 -delete as appropriate]** complaint **[if writing to representative, add: regarding [complainant name, address]]**

I write following up **[our conversation / my letter]** of **[date offer to discuss was made]** when I offered to discuss how we will take forward the investigation in to your concerns regarding the service you have received from London Borough of Lambeth adult social care.

As we have been unable to have that discussion, the Council is required to determine what the response period will be. The following issues that you have raised will be investigated under our complaints process.

**[List of issues and the expected outcomes]**

Please be assured that we take all concerns and complaints seriously and a full investigation will be carried out. Your complaint has been passed to **[name and role of person undertaking the investigation]**, who will lead the investigation and prepare a written response on behalf of the Council.

We will strive to complete the investigation and provide you with a full reply within **[XXX]** working days. We expect to send your letter by **[insert date month year]**. Sometimes, those who have had cause to make a complaint may feel anxious about any impact that this might have on any care provided to them or their family by or on behalf of the Council. Please know that your care services will not in any way be adversely affected by raising concerns. However, if you have any anxieties about this please contact me and I will do my best to help.

**\* [IF THE COMPLAINT IS BEING MADE BY A REPRESENTATIVE AND WE HAVE NOT HAD EVIDENCE OF CONSENT OF THE PERSON YOU WILL NEED TO ADD THE PARAGRAPH BELOW]**

As you are making this complaint on behalf of someone else, before we will be able to provide you with details of our findings we will require the consent of the person on whose behalf you are making the complaint. I should be grateful if you would please arrange for the enclosed consent form to be signed and returned in the enclosed envelope.

If **[insert name of Adult the complaint relates too]** is not able to provide consent please provide details of about this and, if relevant, evidence of power of attorney or similar arrangements.

Please find enclosed a copy of the Council's leaflet detailing our adult social care complaint management procedure.

If you have any concerns in relation to this complaint before you receive your final response, you are welcome to me. Thank you again for bringing your concerns to our attention.

Yours sincerely,

## Template 6: Stage 1 Complaint response/Outcome

Points to remember: A complaint response **MUST** include

- A report of how the complaint has been considered, the conclusions reached, and any remedial action needed
- Confirmation that the Council is satisfied that any remedial action needed has been taken or will be taken
- That the person has the right to take their complaint to the LGSCO

Dear **[complainant, or their representative]**

Re: Your complaint **[if writing to representative, add: regarding [complainant name, address]]**

Our investigation into your complaint you raised on **[date complaint was raised]** is now completed. The full investigation report is enclosed **[delete if not applicable]**  
Summary of investigation and findings

I will address each of the points you raised as outlined in my earlier letter to you.

Point 1

Point 2

Point 3 etc

***[Repeat each individual point of complaint, and follow each one with what you found in the investigation. Every response will be different, especially for complex issues, but it may include some or all of the following:]***

- ***a summary of each element of the complaint***
- ***details of policies or guidelines followed***
- ***a summary of the investigation***
- ***details of key issues or facts identified by an investigation***
- ***conclusions of the investigation: was there an error, omission or shortfall? Did this disadvantage the complainant, and if so, how?***

### Actions taken

As a result of your complaint we have taken the following action

- [action one]
- [action two]
- [action three etc]

The Council is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken.

I am sorry you had cause to complain but I would like to thank you for bringing these matters to our attention. We welcome comments from people who use our services and aim to use these to improve our services.

If you are not fully satisfied with the way we have handled your Stage 1 complaint you have the right to appeal the decision as a stage 2 complaint.

A written stage 2 complaint can either be emailed to us at [Adultsocialcarecomplaints@lambeth.gov.uk](mailto:Adultsocialcarecomplaints@lambeth.gov.uk)

Or sent to

Adult Social Care complaints  
London Borough of Lambeth,  
PO Box 80771, London, SW2 9QQ.

Across the social care and health care sectors, we have a lot to learn from people who have experiences of using our services. If you were interested in sharing your experiences, two organisations that work with people who have used services are

Healthwatch Lambeth First Floor 336 Brixton Road London SW9 7AA 020 7274 8522 <a href="mailto:info@healthwatchlambeth.org.uk">info@healthwatchlambeth.org.uk</a> <a href="http://www.healthwatchlambeth.org.uk">www.healthwatchlambeth.org.uk</a>	Care Quality Commission Telephone 03000 616161 <a href="mailto:enquiries@cqc.org.uk">enquiries@cqc.org.uk</a> <a href="http://www.cqc.org.uk">www.cqc.org.uk</a>
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## Template 7: Stage 2 Complaint Response/Outcome

Points to remember: A complaint response **MUST** include

- A report of how the complaint has been considered, the conclusions reached, and any remedial action needed
- Confirmation that the Council is satisfied that any remedial action needed has been taken or will be taken
- That the person has the right to take their complaint to the LGSCO

Dear **[complainant, or their representative]**

Re: Your Stage 2 complaint **[if writing to representative, add: regarding [complainant name, address]]**

Our investigation into your complaint you raised on **[date complaint was raised]** is now completed. The full investigation report is enclosed **[delete if not applicable]**  
Summary of investigation and findings

I will address each of the points you raised as outlined in my earlier letter to you.  
I will address each of the points you raised as outlined in my earlier letter to you.

Point 1

Point 2

Point 3 etc

***[Repeat each individual point of complaint, and follow each one with what you found in the investigation. Every response will be different, especially for complex issues, but it may include some or all of the following:]***

- ***a summary of each element of the complaint***
- ***details of policies or guidelines followed***
- ***a summary of the investigation***
- ***details of key issues or facts identified by an investigation***
- ***conclusions of the investigation: was there an error, omission or shortfall? Did this disadvantage the complainant, and if so, how?***

### Actions taken

As a result of your complaint we have taken the following action

- [action one]
- [action two]
- [action three etc]

The Council is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken.

I am sorry you had cause to complain but I would like to thank you for bringing these matters to our attention. We welcome comments from people who use our services and aim to use these to improve our services.

If you are not fully satisfied with the way we have handled your complaint you have the right to take your complaint to the Local Government & Social Care Ombudsman, who you can contact at:

The Local Government & Social Care Ombudsman, PO Box 4771, Coventry  
CV4 0EH

Tel: 0300 061 0614

Website: [www.lgo.org.uk](http://www.lgo.org.uk)

Across the social care and health care sectors, we have a lot to learn from people who have experiences of using our services. If you were interested in sharing your experiences, two organisations that work with people who have used services are

Healthwatch Lambeth First Floor 336 Brixton Road London SW9 7AA 020 7274 8522 <a href="mailto:info@healthwatchlambeth.org.uk">info@healthwatchlambeth.org.uk</a> <a href="http://www.healthwatchlambeth.org.uk">www.healthwatchlambeth.org.uk</a>	Care Quality Commission Telephone 03000 616161 <a href="mailto:enquiries@ccq.org.uk">enquiries@ccq.org.uk</a> <a href="http://www.cqc.org.uk">www.cqc.org.uk</a>
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Yours sincerely,