



Adult and Health Services

Annual Statutory Representations Report
Adult Social Care Services 2022/23

Annual Statutory Representations Report

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Part One - Introduction

Welcome to Durham County Council's (DCC) Adult and Health Services (AHS) Annual Report which details representations made in relation to adult social care services. The report covers the period 1 April 2022 to 31 March 2023.

The report is published under the provisions and requirements of the relevant regulations: *The Local Authority Social Services and NHS Complaints (England) Regulations 2009*. This is a single joint complaints process for both adult social care and health services where there are no fixed timescales for managing a complaint with a greater focus on local resolution. If all proportionate resolution mechanisms have been exhausted and if the complaint remains unresolved, the complainant can refer outstanding issues to the Local Government and Social Care Ombudsman (LGSCO). The regulations also introduced a duty for health and adult social care services to cooperate, should this be required, in complaints investigations.

This process aims to:

- Make it as easy and accessible as possible for service users or their nominated representatives to raise complaints;
- Foster an organisational culture in which complaints are accepted, owned and resolved as efficiently as possible;
- Ensure high levels of customer satisfaction with complaints handling;
- Resolve individual issues when they arise and reduce the number of complaints referred to the Ombudsman; and
- Enable the Council to identify topics and trends in relation to adult social care complaints and improve services as a result.

In recording and reporting upon the Council's performance in relation to the above, the Local Authority has a statutory duty to produce an annual report under Regulation 18 of the statutory instrument detailed above.

Other key features of the Regulations include:

- the requirement for local authorities to appoint a Complaints Manager; and
- a 12-month time limit to make complaints.

During 2022/23 the AHS Development and Learning Manager fulfilled the role of 'Complaints Manager' in accordance with the requirements of the regulations, with a Complaints Officer allocated to undertake the day-to-day supervision of the complaints function, both being independent of adult social care services' operational line management, thus ensuring a high level of independence in the way adult social care complaints are managed within the Council.

Part Two - Summary of key messages

The key headlines from this report are as follows:

There has been an increase in the number of complaints investigated from 79 in 2021/22 to 95 in 2022/23.

There was also an increase in the number of adult social care complaints the Council declined during 2022/23; 9 compared to 4 in the previous performance year.

AHS received 4 complaints where the contribution of colleagues from Health were needed to inform upon the Council's response, leading in these investigations and responding on behalf of all involved organisations in line with joint protocols. This was an increase from 3 in the previous performance year. The Council also contributed to a further 9 investigations led by Health, an increase from 2 in the previous performance year.

In relation to service areas, Older People/Physical Disabilities/Sensory Impairment received 36% (34) of the overall complaints about adult social care services, an increase from 34.25% (27) in 2021/22. Complaints relating to Finance increased in number from 26 complaints in 2021/22 to 32 in 2022/23, representing on average a third of all complaints received in these two performance years.

The most common reason for making a complaint in 2022/23 was **Finance – Charging Policy**, identified as a factor in 32 complaints. This was also the most common reasons for making a complaint in 2021/22 linked to 24 complaints.

Adult social care complaints escalated to the Local Government and Social Care Ombudsman (LGSCO) by the complainant after receipt of the Council's complaints response totalled 14 during 2022/23, compared to 15 in 2021/22, with the Ombudsman taking action and/or reaching a decision on 11 of these cases with 3 still being investigated at the time of writing this report.

The service received 93 compliments about adult social care services during 2022/23, an increase from 48 in 2021/22 with compliments for Older People/Physical Disability/Sensory Support doubling from 31 to 62.

Complaints continue to provide invaluable information and learning from which adult social care services can improve. Some examples of which are detailed below:

- The factsheet on charging for residential care services was updated with staff instructed to ensure this is provided at the earliest opportunity and at the same time as the Council carries out a needs assessment for residential care so that service users are made aware of the potential charges as soon as possible.
- Improvements were made to the 'statement of account' template so that service users can clearly identify how the charges for their care and support have been calculated, the payments they have made to date and any outstanding balance.

Part Three - The adult social care complaints process

When a complaint is received, it is risk-assessed to ensure that there are no safeguarding or other procedural issues that might supersede the complaints procedure and that it is within the 12-month limitation period. Consent must be obtained to confirm that someone making a complaint on another's behalf has been given the authority to do so.

Once the above determinations have been made, complainants are engaged in planning how their complaint is to be addressed and the timescales for doing so, along with what they hope to see happen as a result of making a complaint in the form of desired outcomes. A Complaints Resolution Plan (CRP) is produced which summarises this information along with the specific elements of complaint for investigation and the complainant is encouraged to suggest any changes to this document so that it accurately reflects the issues they wish to be examined.

The Council's focus is always on the resolution of the complaint and engagement with the complainant in order to resolve matters to their satisfaction. Where resolution is not achieved, the complainant remains dissatisfied and the Council's complaints procedure is deemed to have been exhausted, the complainant is invited to raise any outstanding issues with the LGSCO.

Whilst a complainant can refer their complaints to the LGSCO from the outset, the Ombudsman will not usually investigate a complaint until the Council has conducted its own investigation and provided a response. In some circumstances where there has been a joint investigation with Health Services, progression may also involve the Parliamentary and Health Service Ombudsman (PHSO).

Part Four- Complaints made to the Local Authority (AHS)

AHS formally investigated 95 complaints through to a formal finding during 2022/23.

In addition to this number, 9 complaints were declined. In 3 cases, complaints were made on behalf of service users by a relative but without the service user's knowledge or consent, and when questioned, these service users did not agree with nor give their consent for a complaint to be made on their behalf. In another case a complaint was made about a care provider where the Council had not commissioned the care package being complained about, therefore it was not the Local Authority's responsibility to investigate the issues, it was deemed to be out of jurisdiction and the complainant was advised to approach the LGSCO directly. There was also a case where a complaint was made more than one year after the grounds to make the representation arose and was therefore out of the 12-month timescale for accepting a complaint. A further 4 cases were declined, which after further examination of the issues revealed that these complaints had been made previously and were therefore a duplication/repetition of matters that the Council had previously investigated and fully reported upon.

Complainants can approach the LGSCO with a request that they review the Council's decision to decline their complaint. At the time of writing this report the Ombudsman

has not approached the Council with an instruction to investigate any of these declined complaints.

AHS led on 4 complaint investigations that incorporated contributions from our partners in Health which was a slight increase from 3 in 2021/22. This involved joint complaint investigations with Tees Esk and Wear Valleys NHS Foundation Trust (TEWV) (1) and County Durham and Darlington NHS Foundation Trust (CDDFT) (2) with another where contributions were sought from both South Tyneside and Sunderland NHS Foundation Trust (STSFT) and CDDFT (1). These 4 complaints are included in the figures presented in this report.

The Council also contributed information to complaint investigations led by TEWV (3), CDDFT (5) and the North of England Commissioning Support Unit (NECS) who investigate complaints on behalf of the Integrated Care Board (ICB) (1), formerly known as the Clinical Commissioning Group (CCG) i.e. 9 in total. This was an increase from 2 in the previous performance year. These figures are not included in this report as the lead organisation will include these within their own annual reporting.

Number of complaints received by service area in 2021/22 and 2022/23

Service Area	Number of Complaints 2021/22	% of Total Complaints 2021/22	Number of Complaints 2022/23	% of Total Complaints 2022/23
Older People/ Physical Disabilities/Sensory Impairment	27	34.25%	34	36%
Learning Disability/Mental Health/Carers/Substance Misuse	15	19%	16	17%
Commissioning	6	7.5%	10	10.5%
County Durham Care and Support	1	1.25%	1	1%
Safeguarding, Practice Development & Access	1	1.25%	2	2%
Finance*	26	33%	32	33.5%
Emergency Duty Team (EDT)	2	2.5%	0	-
Operational Support	1	1.25%	0	-
Total	79	100%	95	100%

**Finance is no longer part of AHS, but the complaints were regarding statutory adult social care services*

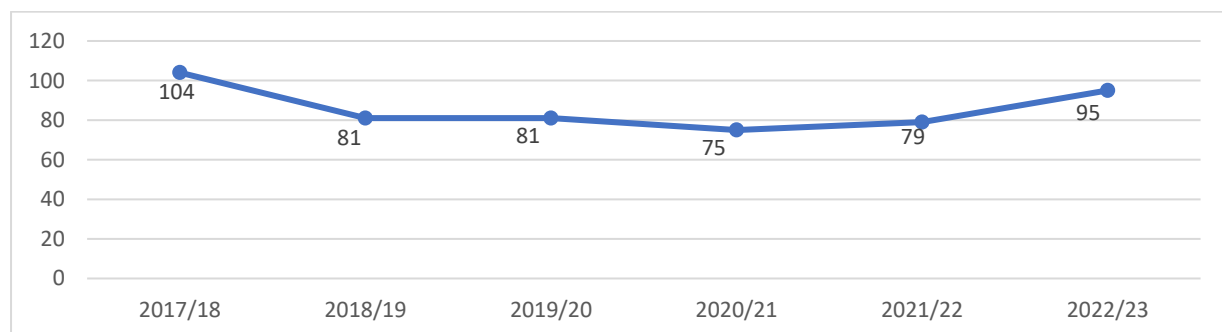
The number of complaints for some service areas remained relatively consistent with changes representing an increase or reduction in complaints by only 1 or 2.

The overall trend, however, has been an increase in complaints from 79 to 95, representing more than a 20% uplift. Complaints relating to finance continued to be high when compared to previous years as the Financial Assessment Team and the

Debtors and Collections Team continued to be impacted upon by the aftermath of the pandemic, where a hold was placed on all debt recovery action. The application and then the removal of Covid-19 funding for certain service users in receipt of domiciliary or residential care services increased workloads and led to a backlog of more routine work with some delays in relation to carrying out financial assessments, recalculating charges due and issuing invoices for any resulting recharges once debt recovery action recommenced, which has resulted in complaints.

The graph below shows the number of complaints received by adult social care services over the last 6 years, with a high in 2017/18 and similar complaint numbers since this peak until an increase during 2022/23.

Year on year trend - adult social care complaints 2017 – 2023



Complaints completed within timescales

Complaints Resolution Plans (CRPs) were completed in all of the 95 complaints received in the year. Of the CRPs compiled, all included a projected timescale for a response which was initially calculated based upon the perceived complexity of the case.

In 30 complaints investigations (31.5%), more time was needed for service areas to fully complete their enquiries for a variety of reasons such as the availability of staff for interview, unforeseen complexity, further information required from the complainant and the need to seek legal advice. This figure is fluctuating as it stood at 29.5% in 2018/19 and then dropped to 12.5% in 2019/20. In the previous performance years impacted upon by the pandemic the deadline for a response was extended in 17% of cases in 2020/21 and in 29% of cases in 2021/22.

Over the 2022/23 performance year the impact on complaints investigations and the need to extend timescales was most keenly felt by Finance where 11 of their 32 complaints needed more time to be concluded. It is noted that there was a significant degree of complexity in the matters raised within some of these complaints where further financial calculations needed to be made and shared alongside complaints responses.

Where the Council needed more time to fully investigate and report upon a complaint, the complainant in each case was updated and fully informed of developments along with a new projected response date.

Of the 95 complaints received, all had been responded to at the time of writing this report. All complaint investigations relating to complaints submitted in 2022/23 were

completed and associated responses issued within the projected or extended timescales notified to the complainant.

Categories of complaints received and findings in 2022/23

When complaints are received, they are recorded and categorised according to the subject matter of the issues raised.

Detailed below is the outcome of complaints in 2022/23 in the associated categories (the highest three totals are shown in bold):

Complaint Category / Issue	Upheld	Partially Upheld	Not Upheld	Total
Application of Service Guidance/Procedures	2	5	3	10
Discrimination	-	-	1	1
Disputed Decision – disagreement with an action	1	1	2	4
Disputed Decision – disagreement with an assessment	2	2	-	4
Disputed Decision – disagreement with a report	-	1	-	1
Disputed Decision – disagreement with an explanation or decision	-	7	6	13
Finance – Assessment	1	8	4	13
Finance – Charging policy	12	10	10	32
Finance – Direct Payments	1	1	-	2
Lack of Communication – letter-box contact	1	-	-	1
Lack of Communication – no information received	10	5	11	26
Lack of Communication – not updated about case	2	-	-	2
Lack of Communication – unreturned phone calls/texts	2	2	-	4
Lack of Communication – other	5	3	4	12
Lack of Explanation / Explanation not understood	1	3	2	6
Lack of Service – change to client’s service	-	1	2	3
Lack of Service – contact/visits	-	-	1	1
Lack of Service – denied service	3	7	11	21
Provision of Service – assessment	-	4	3	7
Provision of Service – equipment	-	-	1	1
Provision of Service – placement provision	-	1	1	2
Quality of Service – missed/late domiciliary care calls	-	3	-	3
Quality of Service – personal care	1	2	2	5
Quality of Service – personal financial issues	-	2	-	2
Quality of Service – work of other agencies	-	1	1	2
Refusal of a service	-	-	1	1
Safeguarding	-	1	7	8
Service withdrawal	-	-	2	2
Speed of service	6	5	6	17
Staff attitude	1	5	4	10
Staff being or seeming to be biased	-	-	1	1
Staff being or seeming to be untruthful	4	2	1	7
Staff not acting in best interest of service user	1	6	8	15
Standard of care	1	5	7	13
Overall Total	57	93	102	252

It should be noted that a complaint can have more than one category assigned to it.

From the 252 different categories assigned to the 95 complaints received in 2022/23, the top 3 reasons for making a complaint are listed below:

Finance – Charging Policy was the most common reason for making a complaint, appearing 32 times (12.5%). This was also the main reason for making a complaint in 2021/22 and often relates to the charges services users are asked to pay for adult social care services where the amounts are disputed, for example, where an unexpected bill

has been received or services have not been delivered as frequently or to the standards expected.

Lack of Communication – No Information Received was the second most common reason for making a complaint, appearing 24 times (9.5%). This category was very much linked with **Finance – Charging Policy**, with a third of these complaints generated by an assertion that there had been no notification that the service user was in receipt of a chargeable service and/or had received an unexpected bill detailing care charges that needed to be paid.

Lack of Service – Denied Service was the third most common reason for making a complaint appearing 21 times (8.5%). Such complaints again are often linked to the provision of care and support, where a service user reports that their needs are not being met with appropriate provision.

Outcome of complaints by service area 2022/23

Service Area	Upheld	Partially Upheld	Not Upheld	Total	Not Upheld as a % of Total	Upheld/ Partially Upheld as a % of Total
Older People/ Physical Disability & Sensory Impairment	4	11	19	34	20%	15.5%
Learning Disability/ Mental Health / Substance Misuse	5	5	6	16	6.5%	10.5%
Safeguarding, Practice Development & Access	-	1	1	2	1%	1%
Commissioning	-	3	7	10	7.5%	3%
County Durham Care and Support	1	-	-	1	-	1%
Finance	12	13	7	32	7.5%	26.5%
Total	22	33	40	95	42.5%	57.5%

In performance year being reported upon nearly 42.5% of complaints investigated through to a finding were not upheld, compared with 32% not upheld in the 2021/22 performance year. All complaints had been investigated through to a finding in 2022/23 with 57.5% having some or all aspects of the complaint upheld, a reduction from 68% in 2021/22.

Complaints that are upheld or partially upheld are of particular interest to adult social care services. In these cases, the service actively looks to identify what it could have done better and what action it can take with the aim of resolving matters to the complainant's satisfaction.

These complaints give the service the opportunity for learning, on an individual level for example, where a social worker can be supported by management to improve their personal performance and sometimes across the whole service, where a policy or procedure is improved as a result of a complaint. Further examples of learning and service improvement as a consequence of complaints received are outlined in Part Six of this report.

Part Five - The Local Government and Social Care Ombudsman (LGSCO)

Where a complainant remains dissatisfied with the outcome of a complaint, they can refer any outstanding issues to the LGSCO who will determine what action to take after considering the presenting issues.

Complaints considered by the LGSCO 2022/23

Service Area	Upheld	Partially Upheld	Not Upheld	Declined/ No Action	Ongoing	Total
Older People/ Physical Disability & Sensory Impairment	2	-	1	1	-	4
Learning Disability/ Mental Health / Substance Misuse	-	-	-	-	1	1
Finance	3	-	-	2	1	6
Commissioning	-	-	-	2	1	3
Total	5	-	1	5	3	14

In the 2022/23 performance year the Ombudsman approached AHS in relation to 14 adult statutory social care complaints, down from 15 in 2021/22, and concluded their enquiries in 11 of these cases at the time of writing this report.

Of the 5 cases declined, closed or identified as needing no further action:

- In relation to 4 complaints the Ombudsman concluded that further investigation would not add to the Council's response or allow the LGSCO to make a different finding of the kind the complainant wants.
- In one case the Ombudsman identified that the complaint had been made more than one year after the grounds to make the representation arose and deemed the submission to be out of timescales.

Of the 5 cases upheld where the Ombudsman identified maladministration and injustice, all had a financial element:

- In two cases, the Ombudsman found DCC at fault for a delay in providing information about care charges and in carrying out a financial assessment so that the service users or their representatives had sufficient information is to help them understand what they may have to pay, when and why. These resulted in fee waivers of £3,849.40 and £7,166.99.
- In another case, DCC failed to promptly inform a service user's representative of the impact of receiving the state pension on their weekly personal financial contribution towards the costs of their care and support with the Council agreeing to a £150 financial remedy in recognition of the delay.
- The Ombudsman identified that the Council failed to send a consolidated invoice sooner but had already apologised and given a full explanation, which remedied the injustice.

- The Ombudsman also found that in the case of a significant delay in invoicing for care charges, the Council's offer of a £500 reduction in those charges was sufficient to remedy the injustice.

Part Six - Learning and service improvement

Complaints provide invaluable information from which the service learns how to improve. Complaints also act as a prompt to ensure all staff work consistently to policies and procedures. Even where complaints are not upheld, full explanations, further information and often apologies are given.

Some of the learning outcomes and actions taken in response to complaints included:

- ensuring the factsheet on charging for residential care is provided at the earliest opportunity and at the same time as the Council carries out a needs assessment for residential care so that service users are made aware of the potential charges as soon as possible.
- improvements made to the 'statement of account' template so that service users can clearly identify how charges have been calculated, the payments they have made to date and any outstanding balance.
- remedial action being taken in order to facilitate an application for a Disabled Facilities Grant for a service user with learning disabilities.
- a session being delivered to the integrated mental health service in relation to managing discharges from hospital when the admission has been for physical health issues, detailing the role of Intermediate Care Services, and the processes around organising the most appropriate care package.
- a care provider being reminded that they should only be billing for services they actually deliver within the parameters of their contractual arrangements with the Council and that all reasonable steps should be taken to adhere to the care arrangements mapped out within the care plan in relation to timings, services provided and duration.
- feeding back to appropriate professionals on the importance of the correct placement as an aid to effective rehabilitation.
- a Senior Practice Improvement Officer reviewing a case where a service user had been assaulted by another resident within their residential care placement, in order to establish if there were any further steps the home could take to better safeguard not only the service user but other residents from such occurrences.
- a care provider being reminded to follow their own complaints procedure and acknowledge complaints within 5 working days, ensuring that a copy of their complaints procedure accompanies the acknowledgement.

Payments were made where failures constituted maladministration and/or injustice as defined by the LGSCO). See the LGSCO section in Part Five of the report. In the 2022/23 performance year financial redress was only considered (and agreed in line with the Council's Scheme of Delegation as appropriate) where there was strong evidence of shortcomings.

It is recognised that where adult social care services are responsible for service failures that have caused losses and significant emotional distress, there is clearly the duty for this to be acknowledged and further distress to the complainant be avoided. In each of the complaint responses issued, full explanations and where appropriate, apologies were offered.

Complaints continue to provide invaluable information and learning from which adult social care services can improve. At the conclusion of each complaint investigation, the Strategic Manager with responsibility for the service area being complained about ensures that any proposed action is completed. They also disseminate any learning across their own area of the service and to a wider audience across AHS where appropriate.

Part Seven - Compliments

There is no statutory requirement to publish data on compliments for the period in question. These are included in this report in order to provide a more holistic view of what service users and their nominated representatives think about the services they receive and to understand what elements of the service that are valued.

There were 93 recorded compliments during 2022/23, an increase from the 48 received in 2021/22. As shown in the table below, the majority of the compliments received in the performance year in were for Older People/Physical Disability/Sensory Support.

Number of compliments by service area in 2021/22 and 2022/23

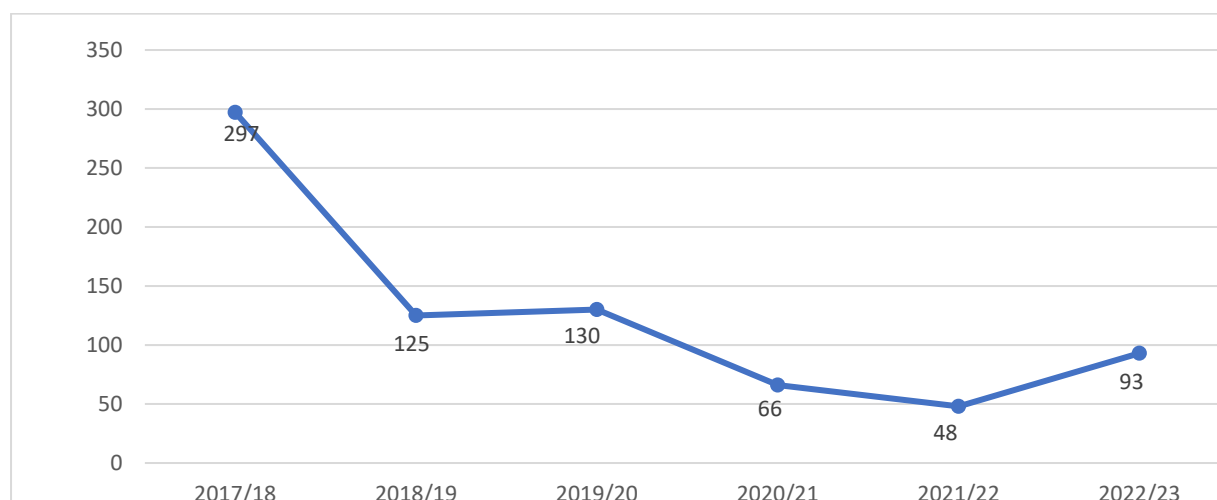
Service	Total Compliments 2021/22	% of Total Compliments 2021/22	Total Compliments 2022/23	% of Total Compliments 2022/23
Older People/ Physical Disabilities/ Sensory Impairment	31	64.5%	62	67%
Learning Disability/Mental Health/ Carers/Substance Misuse	4	8.5%	7	7.5%
County Durham Care and Support	11	23%	16	17.5%
Safeguarding, Practice Development & Access	1	2%	1	1%
Emergency Duty Team (EDT)*	1	2%	-	-
Finance	-	-	2	2%
Operational Support	-	-	5	5%
Total	48	100%	93	100%

**Although managed by CYPS, this compliment was given during the course of dealing with adult social care issues.*

It is noted that during 2017/18 the CDCS teams affected by the prospect of outsourcing captured a lot of positive feedback for their area of the service. Now that these elements of the service are no longer part of DCC, the number of compliments plateaued, followed by a significant reduction since then.

Compliments reduced during the Covid-19 pandemic where staff were relied on to share compliments so that they could be logged. Due to colleagues working from home during a significant part of 2020/21 and 2021/22, as well as a focus within Extra Care on keeping tenants safe during the pandemic, this appears to have impacted upon the receiving and recording of compliments over this period. It is also noted that in June 2021 AHS replaced its Social Services Information Database (SSID) with new Azeus computer system, staff had to be trained on how to add compliments to this new system and the increase in compliments received during 2022/23 represents this training being applied in practice alongside a focus on ensuring that positive feedback is recorded.

Year on year trend - adult social care compliments 2017 – 2023



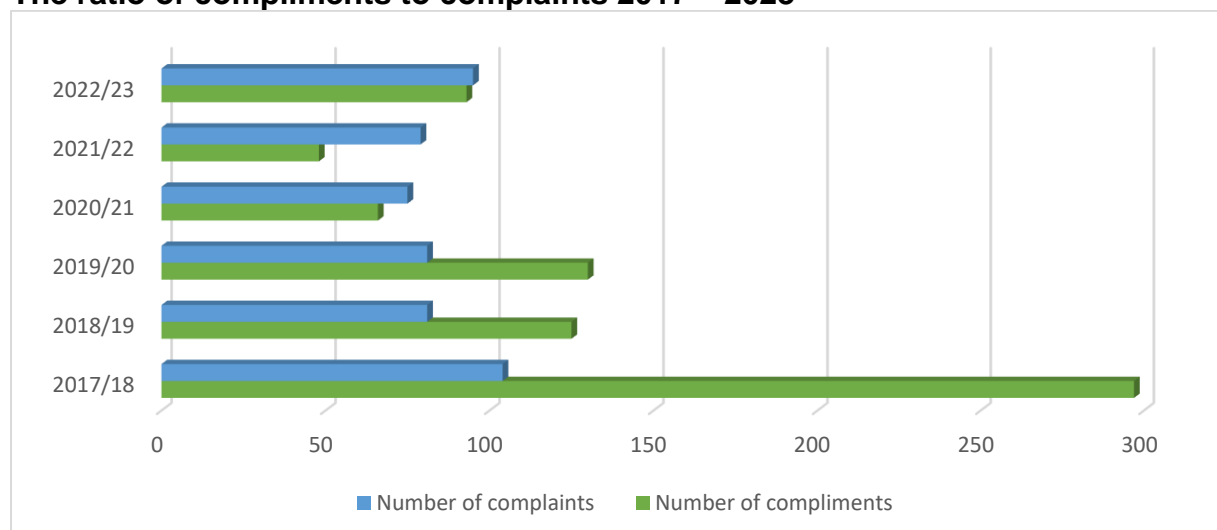
Compliments for reporting purposes must meet specific criteria. Managers are encouraged to ensure that all compliments in the form of positive comments, letters, emails and cards are captured and shared with their staff and teams to re-inforce their value.

Compliments highlight that service users have appreciated the following:

- Feeling respected, listened to and supported.
- Having decisions explained to them.
- Being kept informed.
- Staff explaining issues in a way the client understood.
- Professionalism, care and commitment of staff.
- Being able to contact staff easily.

The number of compliments in previous years was consistently higher than the number of complaints received as shown in the graph below, until 2020/21, when for the first time there were more complaints than compliments. This trend has continued in 2022/23 but there is now virtual parity between the number of complaints (95) and compliments (93) received. The ratio of compliments to complaints received across AHS in 2021/22 was 0.6:1, meaning that for every 1 complaint received, there were 0.6 compliments. In 2022/23 this ratio was effectively 1:1.

The ratio of compliments to complaints 2017 – 2023



Part Eight – Developments and Conclusion

Developments

Whilst the Local Authority has a statutory duty to operate and administer a system for dealing with and reporting upon adult social care complaints, DCC AHS does not simply meet that duty but continuously strives to achieve and maintain a high level of service in relation to the management of complaints. With this aim in mind, a number of developments have been undertaken during 2022/23 to include:

- The continuous improvement of tracking and monitoring systems to ensure actions and learning outcomes arising from complaints are implemented in a timely and effective way and fully embedded, in order to compliment the LGSCO's focus on the monitoring of improvement actions as a consequence of decisions they have made on complaints.
- Close working with AHS System Support as the team charged with managing the Azeus computer system, which was introduced in June 2021, so that operational issues are resolved, and system anomalies corrected. The aim is to rely on Azeus to replace and update the systems currently in use for recording performance on compliments and complaints, utilising the data captured by the system to inform upon our understanding of the feedback received from our service users.
- Closer working with Transactional and Customer Services in relation to the finance aspects of adult social care services which are delivered via the Financial Assessment Team, Deputy and Appointee Team and the Debtors and Collections Team.
- Closer working with the complaints teams in health services, such as the Integrated Care Board (ICB)/North of England Commissioning Support Unit (NECS), Tees, Esk, Wear Valley NHS Foundation Trust (TEWV) and County Durham and Darlington NHS Foundation Trust (CDDFT), with a focus on a consistency in approach for complaints requiring joint investigations.

Reporting

Complaints information is reported on a quarterly basis and circulated as part of the corporate Customer Feedback Report, as well as at the financial year end within the annual report as required by *The Local Authority Social Services and NHS Complaints (England) Regulations 2009*.

Conclusion

The complaints function is a statutory requirement for social care services and it plays a vital role in contributing to quality improvement across adult social care as it provides an understanding of the service users' experiences. Acting upon the learning arising from complaints provides the opportunity to change practice and improve service delivery with transparency and accountability.

A collaborative approach is continually promoted during the management of complaints, where the complainant is central to the process and resolution is proactively sought and encouraged.

Further information regarding anything in this report is available by contacting:

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Appendix 1 - Glossary of abbreviations

AHS	Adult and Health Services
CCG	Clinical Commissioning Group
CDCS	County Durham Care and Support
CDDFT	County Durham and Darlington NHS Foundation Trust
CHC	Continuing Healthcare
CRP	Complaints Resolution Plan
DCC	Durham County Council
ICB	Integrated Care Board
LGSCO	Local Government and Social Care Ombudsman
NECS	North of England Commissioning Support Unit
NHS	National Health Service
PHSO	Parliamentary and Health Service Ombudsman
SSID	Social Services Information Database
STSFT	South Tyneside and Sunderland NHS Foundation Trust
TEWV	Tees, Esk and Wear Valleys NHS Foundation Trust



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Please ask us if you would like this document summarised in another language or format, such as Braille, Audio or Large Print.

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