



STANDARDS COMMITTEE  
17<sup>th</sup> April 2009

**Making Experiences Count**

**PURPOSE OF REPORT:** To note the changes to the statutory complaints procedure for Adults Social Care as a result of Making Experiences Count

**SUMMARY:**

- 1 From 1<sup>st</sup> April 2009, a common approach to handling complaints in the NHS and adult social care will be introduced. The new single stage complaints process provides an opportunity for all organisations to review their local procedures so they can both respond flexibly to complaints, comments and compliments and ensure the resulting lessons are fed into their work to improve services. The new approach focuses on the complainant and enables organisations to adopt a flexible response that seeks to resolve the complainant's specific concerns.

**MAKING EXPERIENCES COUNT**

- 2 The new complaints approach is structured around three principles: listening, responding and improving.
- 3 **Listening**
  - 3.1 The initial contact with someone who has concerns or wishes to complain about the service is key. It is important that we:
    - Ensure we really understand the issues
    - Find out what they want to happen as a result
    - Obtain the right information to assess the seriousness of a complaint
    - Agree a plan and timescale at the outset
    - Maintain regular communication
    - Act quickly if we can.
  - 3.2 If we do this, people will feel more valued, they will have more confidence in our services, and we will be able to manage their expectations, so that the outcome is more likely to be to the satisfaction of everyone involved.

## 4 Responding

4.1 By correctly assessing the seriousness of a complaint, deciding on the most appropriate response then becomes more straightforward. The new approach focuses on ensuring that our organisation is equipped to:

- Clearly gauge the impact of the complaint on all the parties involved
- Establish a clear, appropriate plan of action, and
- Provide the person making the complaint with relevant support and advice.

## 5 Improving

5.1 Finally, complaints provide an important source of information about our service users and their families and friends experiences of health and social care services, and how those services can improve. By working in partnership with all those who provide, support and use a service, we can:

- Enhance our own professional development
- Make improvements to the service we work in, and
- Know that service users feel confident in us as individuals and the service as a whole.

## 6 The New Legislation

6.1 The new legislation applies to NHS bodies, statutory or independent providers of NHS care (primary, secondary and tertiary care) and local authorities who provide adult social services.

6.2 In adult social care, Direct Payments and Individual Budgets are not explicitly part of the reform arrangements, although complaints to a local authority are covered when they are about *the process of allocating* Direct Payment or Individual Budget; *about services that are provided directly by the local authority*; or *when the local authority manages the budget on behalf of the service user*. Decisions made by the service user once the Local Authority has passed finances to them are excluded from the procedure.

6.3 The Act will require organisations to:

- Publicise complaints procedures
- Acknowledge receipt of a complaint and offer to discuss the matter within three working days
- Deal efficiently with complaints and investigate them properly and appropriately
- The CEO or Director (depending on the organisation), to write to the complainant on completion of a complaint investigation, explaining how it has been resolved, what appropriate action has been taken, and reminding them of their right to take the matter to the Health Service Ombudsman or Local Government Ombudsman if they are still unhappy, (*this requirement can be delegated*).
- Assist the complainant in following the complaints procedure, or provide or provide advice on where they may obtain such assistance.
- Ensure there is a designated complaints manager who is responsible for both the complaints policy and learning from complaints
- Produce an annual report about complaints that have been received, the issues they raise, and any matters where action has been taken or is to be taken to improve services as a result of those complaints.

- 6.4 If the complaint involves two or more organisations, the person complaining should get a single, coordinated response. *There is a duty to 'co-operate' within the act.*
- 6.5 Complaints that are received verbally and are resolved to the complainant's satisfaction, within one working day can be excluded from this procedure.
- 6.6 The discretion of the Complaints Manager to refuse a complaint that is about matters that took place over 12 months ago is retained within the new legislation.
- 6.7 The Government is aware of the need for independent investigation of complaints from people purchasing their own care, and during the passage of the Health and Social Care Act 2008, the Government gave a commitment to legislate on this issue. The Health Bill, currently before Parliament, will amend the Local Government Act 1974 to allow the Local Government Ombudsman to consider these complaints.
- 6.8 The Care Quality Commission will require registered providers of services to investigate complaints effectively and ensure that learning from complaints is reflected in risk management and training and development arrangements

<b>RECOMMENDATIONS:</b>
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- A) Member to note the changes to the Statutory Complaints Procedure in Adult Social Care

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**REPORT AUTHOR:** Belinda Newth, Service Manager, and Families Customer Relations  
Children, Schools and Families

**CONTACT DETAILS:**

01483 519095

Belinda.newth@surreycc.gov.uk

**Sources/background papers:**

The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 SI 2009/309 (OPSI)

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