

Complaints Procedure – Adult Social Care

Reference: *
Version No: 1.1
Issue Date: Dec 2025

Document Control

Document Ref:		Date Created:	November 2023
Version:	1.1	Date Modified:	December 2025
Revision due	December 2027		
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Equality Impact Assessment: (EIA)	Date undertaken:		
	Issues (if any):		

Change History

Version	Date	Description	Change ID
1.1	Dec 2025	Procedure reviewed. Minor change – update to email address of Financial Assessment and Charging Team	AL

Related Documents

Reference	Title	Tier

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1. Purpose

- 1.1 The purpose of this procedure is to explain how West Berkshire Council (WBC) investigates and manages Adult Social Care complaints, what individuals can do if they are unhappy about any aspect of Adult Social Care Services and what WBC will do to resolve the complaint.
- 1.2 This procedure is aimed at good practice guidance and supporting staff to deal with complaints in ways which are demonstrably consistent and fair, and which comply with legislation and best practice.
- 1.3 WBC are concerned about the quality of care individuals receive and are always striving to maintain high standards of social care with continuous review of everything we do. However, we know there may be times when people are not satisfied with the standard of service they receive.
- 1.4 Individuals have the right to be provided with a full and comprehensive response on behalf of the Executive Director – People, Adult Social Care to any genuine complaint (subject to receiving relevant consent, if applicable). Therefore, WBC will fully investigate complaints and keep the individual informed about the progress of the investigation.
- 1.5 This procedure is an important and visible sign that WBC listens and values feedback and strives to improve services. This procedure recognises the statutory duty placed on WBC by the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- 1.6 This updated procedure came into effect on 24.04.2024 and replaces procedure v 1.4 dated Feb 2021.
- 1.7 The People’s Directorate Leadership Team (PDLT) have approved the Complaints Procedure – Adult Social Care as have West Berkshire Council Corporate Board.

2. Applicability

- 2.1 This procedure applies to:
 - 2.1.1 All employees working for the Council in Adult Social Care, including those working from home or at non-Council locations.
 - 2.1.2 Other persons including Elected Members, Consultants, Agency staff and Contractors working for the Council in Adult Social Care.
- 2.2 It is the responsibility of each employee and other person mentioned in Section 2.1.2 to familiarise themselves with and adhere to this procedure.

3. Procedure

- 3.1 This procedure ensures all complaints raised in respect of Adult Social Care are dealt with in compliance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

What is a complaint

- 3.2 West Berkshire Council defines a complaint as “an expression of dissatisfaction or concern by the public about the standard of service, conduct, actions or lack of action by West Berkshire Council or its staff”.
- 3.3 If individuals are dissatisfied or have concerns about any of Adult Social Care’s standard of service, actions or lack of action or its staff, we have a formal complaints process. Please note that this procedure is not intended for cases where WBC has taken a decision in a proper manner but with which the complainant disagrees.
- 3.4 Individuals may wish to make a complaint about a service which is being delivered by a third-party provider on behalf of the Council (i.e funded by the Council), for example a residential or nursing care home, a social care provider or an advocate (this list is not exhaustive). In the first instance, the individual should contact the third-party provider to raise their concerns and follow its internal procedure.
- 3.5 However, if the third-party provider fails to investigate their concerns and/or fails to provide a satisfactory response, the individual can complain to the Council who will then pursue the complaint on their behalf.

Who can complain

- 3.6 A complaint about any aspect of Adult Social Care Services can be made by an individual user of West Berkshire Adult Social Care Services, or with their permission, an appropriate representative such as a relative or carer. When a complaint is made on behalf of someone else, a consent form must be completed unless the person making the complaint has evidence that they hold Power of Attorney or Deputyship in respect of the client for health and wellbeing and/or property and finances, depending on the nature of the complaint.
- 3.7 If the individual to whom the complaint refers lacks capacity to make their own decision, formal consent must be gained from their Power of Attorney/Deputy.
- 3.8 WBC will only accept complaints from a representative under certain conditions. Either when the individual has consented, either verbally or in writing or when the individual cannot complain unaided and cannot give consent because they lack capacity to do so within the meaning of the Mental Capacity Act 2005 and when the representative is acting in the individuals best interests: for example where the matter complained about, if true, would be detrimental to the individual.
- 3.9 Complaints that are anonymously received cannot follow the formal complaint process. However, the details will be taken and passed to the relevant service lead or through the safeguarding process to investigate.
- 3.10 When things go wrong, we aim to put things right quickly.
- 3.11 People can make a complaint if they believe WBC:
- Has done something wrong

- Fails to do something it should have done
- Does something it should not do
- Provides a poor standard of service

3.12 Complaints which are unclear or very general may be difficult to investigate and WBC may ask for more information to be provided by the complainant.

3.13 If a complaint relates to services provided by more than one responsible body, the different organisations must co-operate with each other in handling the complaint to make sure that the complainant receives a co-ordinated response. Each body must provide the other with relevant information and attend at any meetings which are reasonably required.

Complaints relating to charges for adult care services

3.14 It is for the person who has been financially assessed, with help if necessary from an adviser, friend or advocate, to demonstrate to the Council that their means are insufficient to reasonably meet their assessed contribution or that their contribution has been incorrectly assessed.

3.15 If individuals disagree with a decision made about their adult social care financial assessment, they can contact the Adult Social Care Financial Assessment and Charging Team – email FACTeam@westberks.gov.uk

3.16 Or by telephone at: 01635 503917

3.17 Complaints that relate to invoicing for Adult Social Care Services , for example discrepancies between the hours invoiced versus the hours of service delivered, will be responded to separately, as invoicing is a corporate activity, but will be monitored through this procedure.

3.18 If individuals wish to make a complaint about another matter or concern, they need to use the complaints procedure which can be found online at: <https://www.westberks.gov.uk/complaintsaboutcare>

How complaints can be made

3.19 Complaints can be submitted online at: <https://westberks.gov.uk/complaintsaboutcare>

3.20 Or sent by letter to:

- Adult Social Care Complaints, West Berkshire Council, Market Street, Newbury, Berkshire, RG14 5LD

3.21 Complaints can also be made via email to complaintsadultsocialcare@westberks.gov.uk

3.22 Or complaints can be raised by the complainant speaking to any member of staff who must forward details of the complaint to the Adult Social Care complaints service.

3.23 If people make a complaint they:

- Will not suffer any penalty or discrimination as a result
- Will have their complaint acknowledged, taken seriously and investigated
- Will receive a reasoned and courteous and honest response
- Can expect WBC to try and understand things from their point of view

3.24 Some people may require support to make a complaint but do not have family or friends to advocate on their behalf. In those instances WBC will talk to them about how best to access support from advocacy services if it is appropriate to their needs. Please see section 3.28 – 3.32 below.

3.25 To enable WBC to consider a complaint and to be clear about appropriate resolutions, we ask complainants to:

- Explain clearly what has gone wrong and provide as much factual information as possible.
- Provide any additional information that may be requested of them as soon as possible.
- Tell WBC what resolution they would like to see.
- Make any special support requirements known to WBC as soon as possible.
- Remain calm and treat staff in a courteous way as staff are only trying to help.

3.26 The time limit for making a complaint must be no later than 12 months after the date the event occurred.

3.27 The time limit will not apply if WBC is satisfied that the complainant can give a good reason for not making the complaint within the time limit and despite the delay it is still possible to investigate the complaint effectively and fairly.

Equality and Advocacy

3.28 The Equality Act 2010 applies to the way complaints procedures are followed. If somebody has a disability and that makes it very difficult for that person to use the complaints procedure, then the responsible body has a duty to make reasonable adjustments to the procedures to assist that person access the complaints service. A reasonable adjustment might be providing complaints information in a larger font or identifying an advocate to support a complainant who has a mental health condition (see disability discrimination under the Equality Act 2010).

3.29 An advocate is a person who supports individuals and helps them to explain and say what they want. They help the person to ensure that their views are heard, so that their problems can be sorted out and that includes helping complainants make a complaint. The duty to involve the individual applies to all settings, those living in the community, in care homes etc.

3.30 To facilitate the individual's full involvement, WBC should first meet its duty under the Equality Act by ensuring reasonable adjustments are made to reduce or remove any substantial difficulty a person may have, which may include the appointment of an independent advocate.

- 3.31 Therefore, if a complainant qualifies under the Care Act 2014, Mental Health Act 2007, or the Mental Capacity Act 2005 they can have access to help from an independent advocate. A social care worker will identify whether they meet the qualifying criteria.
- 3.32 In other cases the Council can signpost a complainant to access advocacy services from an independent agency where this is deemed appropriate.

The process and timescales

- 3.33 Ideally complainants should raise their concerns at the time with their social care worker, or as quickly as possible after the event, so it is fresh in everyone's mind and can be addressed without the need for a formal process.
- 3.34 All complaints will be investigated and responded to by a person with sufficient seniority to resolve the issues.
- 3.35 Any social care worker will listen to concerns/complaints and wherever possible they will try to initially resolve those concerns informally within 24 hours. This will allow the complaint to be dealt with by social care staff who know the person and/or their family well and are in the best position to resolve concerns quickly.
- 3.36 If the issue cannot be resolved within 24 hours the complaint should be forwarded to the Adult Social Care Complaints Service . The Adult Complaints and Public Liaison Manager will record the complaint and instigate the formal process.
- 3.37 The Adult Complaints and Public Liaison Manager will acknowledge receipt of the formal complaint within three working days, detailing the fundamental areas of the complaint. If they need to clarify any detail of the complaint, they will contact the complainant to listen to what they have to say and understand what their problem or concerns are. They will then agree the Statement of Complaint with them.
- 3.38 WBC will appoint an suitably senior member of staff to investigate the complaint. They are known as the Investigation Manager.
- 3.39 Complainants can usually expect a full response in writing to their complaint within 20 working days from agreement of the Statement of Complaint. However, if the complaint is of a complex nature or needs further investigation or responses from other agencies, WBC may have to extend this deadline. WBC will notify the complainant, in writing, if an extension is required.
- 3.40 The nominated Investigation Manager will make a final decision regarding the complaint.
- 3.41 In summary complainants will receive (so far as is reasonably practical):
- Assistance to enable them to understand the complaints procedure
 - Advice where they may obtain such assistance (section 3.28 – 3.32 Equality and Advocacy)
 - An acknowledgement of the complaint within 3 working days.

- A coordinated response where the complaint involves more than one provider/commissioner of services.

- 3.42 If the complainant is unhappy with the formal written response, they must outline the areas they are dissatisfied with and inform the Adult Social Care's Complaints Team within 10 days of receipt of the complaint response.
- 3.43 WBC may then, if appropriate, choose to offer a complaint meeting with the aim of bringing the matter to a satisfactory close. In some circumstances a meeting of this kind may be beneficial to help communication and understanding of complex and/or emotive subjects.
- 3.44 If WBC does not consider this to be an appropriate course of action, if the complainant does not wish to take part in a complaint meeting, or, after the complaint meeting they are still unhappy, they have the right to refer their complaint to the Local Government and Social Care Ombudsman (LGSCO) see section 3.47 – 3.56.
- 3.45 If no further response from the complainant is received within 10 days, the case will be closed.
- 3.46 It remains at the discretion of the Complaints Manager and/ or the Investigating Manager to use mediation at any point within the formal complaints process if this would enable resolution of the issues complained of. We will discuss this with the complainant, if appropriate.

The Local Government and Social Care Ombudsman (LGSCO)

- 3.47 If an individual remains unhappy with the outcome of the complaint, they can pursue their dissatisfaction by asking the Local Government and Social Care Ombudsman (LGSCO) to review the complaint. They must have exhausted the council's complaints procedure before contacting the LGSCO.
- 3.48 The Ombudsman investigates complaints in a fair and independent way - it does not take sides. It is a free service.
- 3.49 The Ombudsman expects the individual to have given the council a chance to deal with the complaint before they contact them. If they have not heard from the council within a reasonable time, it may decide to look into the complaint anyway.
- 3.50 The Local Government and Social Care Ombudsman is the final stage for complaints about councils and some other organisations providing local public services. It also investigates complaints about all adult social care providers (including care homes and home care agencies) for people who self-fund their care.
- 3.51 Please note that on occasion there are complaints the LGSCO cannot or will not be able to investigate. In such circumstances, the LGSCO will explain clearly if this is the case, and the reasons why this decision has been given.
- 3.52 You can contact the Local Government and Social Care Ombudsman as follows:
- 3.53 Online at www.lgo.org.uk

- 3.54 By telephone on: 0300 061 0614
- 3.55 Or by post at Local Government and Social Care Ombudsman, PO Box 4771, Coventry, CV4 0EH
- 3.56 Their opening hours are Monday to Friday: 10am to 4pm (except public holidays).

A complaint cannot be investigated under the following circumstances

- 3.57 There are circumstances when a complaint cannot be investigated. Those circumstances are:
- Cases where other rights of appeal exist (e.g. Adult Social Care Appeals)
 - Routine requests for service (e.g. request for an assessment) unless such a request has been dealt with improperly or with undue delay.
 - Cases where an immediate response can be given (usually within 24 hours).
 - Cases where an individual is appealing against a decision which, although is not the one they wanted, has been arrived at properly.
 - Cases which are being investigated or need to be referred to the safeguarding adults team. Safeguarding enquiries will always take priority over the complaint (see note below*).
 - Where legal proceedings are already underway, or are commenced after the complaint is submitted, in which event the complaint will not be progressed until those proceedings are complete.

*Safeguarding issues will immediately be referred to the safeguarding process for any enquiry to take precedence. Safeguarding will then follow their own internal processes. Details of the Safeguarding Adults Multi-Agency Policy and Procedure can be found online at: [Berkshire Safeguarding Adults - Berkshire Policies & Procedures for Safeguarding Adults](#). The receipt of any complaint will not put a stop to or delay the safeguarding investigation, which will always take priority.

The complainant is informed of the action taken and advised that they may pursue their complaint once the safeguarding enquiry is complete. The complaint process is temporarily paused. The complaints manager remains mindful of developments, liaises closely with other staff involved in the safeguarding investigation, and maintains contact with the complainant during the paused period.

Persistent complaints/unacceptable complainant behaviours

- 3.58 A very small minority of complainants make complaints that are habitual and/or they display unacceptable behaviour in doing so, i.e. they persist unreasonably with their complaints, or make complaints in a manner which is deemed unacceptable.
- 3.59 The nature and/or frequency of contact with WBC can hinder the ability of staff to provide a quality service to individuals as a whole or may cause staff intolerable levels of stress.
- 3.60 It may therefore be necessary to address unacceptable behaviour by restricting contact with WBC.

- 3.61 Details of how WBC will deal with habitual complainants and / or unacceptable complainant behaviour are detailed in the Corporate Complaints Policy, which can be accessed online at:
https://www.westberks.gov.uk/media/37235/Corporate-Complaints-Procedure/pdf/Corporate_Complaints_Procedure3.pdf?m=636893687272070000
- 3.62 We strive to treat individuals in a considerate and polite way, and we expect this to be reciprocated.
- 3.63 The above information can also be found in the Adult Social Care's Complaints Leaflet – ' We Are Listening', which can be found online at:
<https://www.westberks.gov.uk/adult-social-care-leaflets> and is also available as an easy read version.

4. **Implementation**

- 4.1 This procedure replaces the Complaints Procedure – Adult Social Care v1.4 dated February 2021. It will be implemented and monitored by the Adult Complaints and Public Liaison Manager supported by the Safeguarding Adults Service Manager.

5. **Roles and Responsibilities**

- 5.1 The overall responsibility for the procedure rests with the Chief Executive delegated to the Executive Director for Adult Social Care within the People Directorate.
- 5.2 The responsibility for day-to-day management of this procedure throughout West Berkshire Council rests with the Adult Complaints and Public Liaison Manager, they are also responsible for maintaining this procedure and for providing advice and guidance on its implementation.
- 5.3 All managers within Adult Social Care are directly responsible for implementing this procedure within their service areas, and for the adherence of their staff and others (2.1.2).
- 5.4 All personnel detailed at 2.1.1 and 2.1.2 have an individual responsibility to adhere to this procedure.

6. **Failure to comply with WBC Complaints Procedure – Adult Social Care**

- 6.1 This document provides staff and others with essential information regarding the management of complaints within Adult Social Care and sets out the processes to be followed. It is the responsibility of all to whom this procedure document applies to adhere to these conditions. Failure to do so **may** result in:
- informal disciplinary processes
 - formal disciplinary action (in accordance The Code of Conduct)

7. **Review**

- 7.1 This procedure will be reviewed to respond to any changes and at least every 2 years.

7.2 The Service responsible for reviewing and maintaining this procedure is the Safeguarding Adults Service.
