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# ANNUAL REPRESENTATIONS REPORT 2008-2009

## SUMMARY AND KEY MESSAGES

### A. OVERVIEW

This Annual Report provides details about the performance of Durham County Council's Adults, Wellbeing and Health Representations Procedure; although in 2008/09 the Service was structured differently in this reporting period and was known as Adult and Community Services. Representations cover compliments, comments and complaints made by service users, their carers and/or their representatives. Representations about Adult social care Complaints are dealt with under a statutory procedure, governed by Local Authority Social Services Complaints Regulations published in 2006.

From 1st April 2009, the 2006 regulations were superseded by the Local Authority Social Services and NHS Complaints (England) Regulations SI 2009 No.309; these new Regulations have significantly changed the approach to complaints management. The 2009-2010 report will be published according to these new prescribed requirements and the format will reflect the person centred approach, the involvement of complainants in resolution and the move away from fixed timescales.

Data is provided against which performance in the handling of Representations can be analysed. It is equally important that the qualitative issues that arise in Representations are also reflected upon to obtain an overview of quality of life issues. This is considered from the perspective of adult social care service users, and their carers, and other service users and citizens across the breadth of Adults, Wellbeing and Health. From the issues raised real opportunity is presented for us to change and improve services by having a clearer understanding about what works best for service users and effecting change that ultimately leads to client-centred provision and community participation.

An efficient and effective Representation Procedure creates a genuine partnership between service users, their carers and the staff. All Representations create an opportunity for reflection on whether something should have been done differently and whether there are wider implications and lessons to be learnt. In that respect the compliments and comments received are as important as the complaints so that we learn from existing good practice as well as from when things go wrong

Details about the Representation Procedures, and how and where to access these, are available on Durham County Council's website ([www.durham.gov.uk](http://www.durham.gov.uk)) and available in leaflet form in key locations throughout the County.

## **B. KEY MESSAGES**

### **Numbers of Representations**

In 2008/2009 a total of 355 Representations, were made under the Adult social care Procedures. Of the 355, 77 (21.69%) were complaints (69 Stage One and 8 Stage Two). As a proportion of the total number of contacts with service users and carers this represents a very low ratio.

Of the 355 representations it is pleasing to note that such a high number 271 (76.33%) were compliments.

This year has once again see a decrease in the number of complaints received in adult social care than in previous years (see Table 9 and Illustration 4, p20 -21 *Comparative Trends by Reporting Year*) but the complexity of complaints received has remained fairly static - on a similar level to the previous reporting year. The decrease reflects the more personalised and immediate approach to complaints resolution which results in fewer concerns being formalised into complaints.

Otherwise, the overall number of representations received has remained fairly typical in numbers.

### **Representations by Service**

The service receiving the largest number of complaints is Older People's Services, Mental Health Services for Older People and Physical Disability and Sensory Impairment Services (OP/OPMH/PDSI) representing 63%. Given that the highest proportion of service users are older people the figures are proportionate and fall within the range of expectation.

10% of the complaints were heard at Stage Two with 2 complaints being accelerated directly to Stage Two, bypassing Stage One. 75% of the Stage Two complaints were about OP/OPMH/PDSI services.

The service area receiving the greater number of compliments was County Durham Care and Support at 58%, followed by OP/MHSOP/PDSI with 32%, Learning Disability/Mental Health and Substance Misuse (LD/MH/SM) at 7%, and Finance & Business Support (F&BS) with 3%.

## **Representations received by Service User Group**

Service Users and Carers frequently make the effort to pay compliments to staff about the services received and it is noteworthy that compliments consistently exceed the number of complaints.

Older people constituted the largest service user group to make both complaints and compliments, as would be expected due to the high proportion of service users who are older people.

The greatest proportion of complaints is brought by Relatives (non parent) (46%). This figure has remained static since the last Annual Report and is likely to be an ongoing demographic feature- as more people survive into their old age, the greater the chances that they will require support in daily living with their needs advocated by relatives.

## **Age Profiles of Service Users Making Representations**

The greatest number of compliments was made by women aged 85 and over. (24%), which is in line with the demographic make-up of service users.

## **Ethnicity and Diversity**

Complainants analysed by ethnicity represented 98.7% White British and 1.3% White (other). 100% recording of ethnicity in representations was achieved on SSID. This data reflects the demographic profile of our service users and is within expected levels.

## **Causes of Complaint for Service Users in Adult social care**

The largest single cause of complaint continues to be recorded as *Staff Conduct/Attitude* at 18.3%. This is a comparable figure to last year at 18%.

*Lack of a Service –Communication/Information* constituted the second highest category of complaint at 13.27%.

## **Achieving Timescales**

### **Stage One**

In the year 2008/2009 71% of Stage One complaints were completed within the 20 working days timescale - an increase of 11.7% on the previous reporting year where only 59.3% were completed in timescale.

## **Stage Two**

During 2008/2009 50% (4) of Stage Two investigations were completed within the 25 working days timescale compared to 28.5% in the previous year. Three (27.5%) investigations at Stage Two took between 66-150 days to complete but the delays were due to the availability of the complainant and outside of DCC's and the independent investigator's control. One (12.5%) Stage Two Complaint is ongoing at the time of writing. The delays in concluding this complaint are wholly due to the availability of the complainant.

## **Stage Three**

No complaints progressed to Stage Three in 2008/2009.

## **Local Government Ombudsman**

The Local Government Ombudsman reported on five cases that had been considered during the year. There were no findings of maladministration in any of the cases. The LGO also referred two complaints back to DCC as they had been raised prematurely.

## **C. OUTCOMES AND LEARNING FROM ADULT SOCIAL CARE COMPLAINTS AND REPRESENTATIONS**

Examples of the learning and practice developments that accrue from Representations are provided in the main body of the report.

Much progress has been made over the years in creating an organisational culture that has shifted from a blaming and closed culture to one that is open and fair and work must continue to secure further development in this area. This approach will be enhanced as the new adult care complaints procedure is embedded.

## **D. AREAS FOR FUTURE DEVELOPMENT**

### **National and Regional**

The Department of Health (DH) reforms to the statutory complaints procedures have now been implemented and the early signs are that the new approach to complaints' management is highly effective, both for complainants and responsible officers.

The DH are developing a further consultation on a complaints procedure for self-funding clients whose services are provided directly by the independent sector. It is anticipated that new legislation in this area will be implemented in 2010. The consultation is not yet published, so it is not possible to identify potential implications for local authorities.

At regional level the Values into Action Network (VIAN), for Complaints Officers/Managers in health and social care, has been re-constituted and over coming months will be developing protocols for joint working across agencies.

### **Local Developments**

#### **Listening, Learning, Improving - the new Complaints Procedure in Adult social care**

Work on developing policies and procedures to support the new way of working on complaints in adult social care continues.

### **E. CONCLUSION**

This Annual Report indicates positive achievements in performance in the handling and consideration of representations, including complaints, during the year 2008/09. With the Department of Health's delayed publication of the Regulations and Guidance for the new statutory complaints procedures the challenge was to develop and deliver a new approach to complaints handling and it is pleasing that this was achieved and has enabled ongoing developments in this area.

It is pleasing to note that many positives have been achieved in 2008/09 and these will continue to be built upon in the forthcoming year.

# **ANNUAL REPRESENTATIONS REPORT 2008-2009**

## **PART ONE - INTRODUCTION**

### **1. PURPOSE OF THE REPORT**

**1.1** This Annual Report provides details about the performance of Durham County Council's Adults, Wellbeing and Health Representations Procedures during the year 2008/2009. Although in this reporting period the Service was structured differently and was known as Adult and Community Services. Representations cover compliments, comments and complaints made by service users, their carers and/or their representatives and other customers.

**1.2** Where complaints are made about adult social care services a statutory procedure has to be followed governed by Regulations published in 2006. Complaints about services, other than adult social care, provided by Adults, Wellbeing and Health are dealt with under the Authority's Corporate Complaints procedure.

**1.3** This will be the last Annual Report that is written under the statutory requirements of the 2006 Adult Social Services Complaints Regulations following governmental reforms (Local Authority Social Services and NHS Complaints (England) Regulations SI 2009 No.309) that became effective from 1 April 2009.



## **PART TWO – THE REPRESENTATIONS PROCEDURE EXPLAINED**

### **2. BACKGROUND**

**2.1** Requirements on the procedures for handling and considering complaints in adult social care are enshrined in the *NHS and Community Care Act 1990* and in line with the Local Authority Social Services Complaints Regulations 2006 -Statutory Instrument 2006 No.1681 S18 (2).

**2.2** The same legislation requires the publication of an Annual Report to inform service users, their carers and/or representatives, elected members, staff, the general public and other statutory organisations such as the Commission for Social Care Inspection (incorporated into the Care Quality Commission from 1 April 2009), about how the service has performed in meeting key national and local standards, in respect of handling complaints.

**2.3** Adults, Wellbeing & Health although required through legislation to report on complaints are committed to making available this information; in order that there is integrity in the governance procedures and open and transparent communication with the people who use our services, the wider public and other partners.

**2.4** Whilst there are processes to be adhered to in the handling of complaints the real issues that arise within people's complaints are rarely reflected in statistical analyses. As well as providing data on measurable performance it is crucial that the report reflects the quality of life issues for the users of our services that have led them to complain about the services they receive, or indeed to compliment those services. From the issues raised real opportunity is presented for us to change and improve services by having a clearer understanding about what works best for service users and effecting change that ultimately leads to client-centred provision.

### **AIMS OF THE REPRESENTATION PROCEDURES**

**2.5** The primary aims of the procedures are to:-

- recognise and value the needs and rights of service users and others to express their views and concerns about the actions and decisions taken by Adult social care services within Adults, Wellbeing and Health;
- enable individuals, who are eligible to make appropriate complaints or other positive comments, to have easy access to the Representations Procedure;
- enable and empower staff to listen to the experiences of service users and carers, take seriously their concerns and complaints

and use best customer care practice to try and resolve or remedy any problems to their satisfaction;

- provide information about important lessons learned, from complaints in particular, to make quality improvements to performance and service delivery.

**2.6** An efficient and effective representation procedure creates a genuine partnership between service users, their carers and the staff. All representations create an opportunity for reflection on whether something should have been done differently and whether there are wider implications and lessons to be learnt. In that respect the compliments and comments received are as important as the complaints so that we learn from existing good practice as well as from when things go wrong. However, when things do go wrong we have to remember that there is an impact on quality of life for individuals and we need to continually strive to be responsive in these situations.

## **WHO MAY USE THE STATUTORY ADULT SOCIAL CARE PROCEDURES?**

**2.7** The *statutory* Complaints/Representations Procedure in adult social care can be accessed and used by individuals who are in receipt of social care services, including their carers and or representatives (subject to the subject's consent for them to act). Legislation recognises the following:

- *“Any person to whom the local authority has a power or duty to provide, or secure the provision of, a service (in adult social care), and whose need or possible need for such a service (provided by adult social care) has, by whatever means, come to the attention of the local authority”.*
- Anyone representing or acting on behalf of a person, as described above, in any case where that person:
  - has requested the representative to act on his/her behalf
  - is not capable of making the complaint by him/her self
- Individuals who are carers, advocates and others, whom Adults, Wellbeing and Health consider as having sufficient interest in the person's welfare, will also be eligible to use the Procedure.

## **MANAGEMENT AND OPERATIONS OF THE REPRESENTATIONS PROCEDURE**

**2.8** Within Adults, Wellbeing and Health the complaints management function sits within the Quality Assurance and Quality Standards Team of Policy, Planning and Performance. Nevertheless there is a close working relationship and collaboration with all operational managers and staff in all of the service areas in adult social care.

**2.9** The receipt and initial recording of adult social care representations continued to be managed through several locations including AW&H Administrative Assistants at County Hall, locality Administrative Officers and Personal Assistants attached to senior managers.

**2.10** The responsibility for publicising and promoting information and related materials, leaflets and booklets about the adult social care representations procedure is co-ordinated by the Marketing and Information Team. These are currently under review to reflect the new changes in the legislation. Service User Guides, which are provided to all adult social care service users, contain a section on how to make a complaint, comment or compliment. Additionally, staff are expected to provide verbal information and advice to service users. Details about the Representation Procedures, and how and where to access these, is available on Durham County Council's website ([www.durham.gov.uk](http://www.durham.gov.uk)).

## **HANDLING COMPLAINTS**

**2.11** In adult social care complaints, the 2006 legislation and guidance, provides for complaints to be heard in three different stages.

- Stage One – the local resolution stage. In some cases if the matter complained of can be put right immediately to the satisfaction of the complainant the matter will progress no further. If the matter cannot be put right immediately an investigating officer appointed by the senior responsible manager will look into the complaint and try to put things right. If this is not possible the complainant can progress to:-
- Stage Two – This involves a formal independent investigation of the complaint. Some complaints, for example that are complex or involve a range of agencies, can progress immediately to Stage Two if the complainant agrees. The independent investigator is recruited from outside of the authority to ensure transparency and no conflict of interest. They will agree the elements of the complaint; interview all relevant people involved; review all relevant records and conduct the investigation within the parameters agreed. At the conclusion of the investigation the Investigating Officer will produce a written report with findings detailing whether a complaint was upheld, partially upheld, unproven or not upheld. The IO will also make recommendations as to how upheld complaints can be put right. The recommendations can include changes to how services are provided; policy and practice changes; the offering of apologies; and, in certain circumstances,

compensatory redress. If the complainant remains unhappy with the IO's findings they can request that these be referred to:-

- Stage Three – This stage involves the complaint being referred to a Review Panel of 3 people who are independent of Durham County Council. The Panel cannot re-hear a complaint. They will review the evidence obtained during the investigation, make a judgment as to whether the investigation was conducted equitably, thoroughly and rationally and that the findings and recommendations were reasonable and reasoned. The Panel hearing involves the complainant and staff involved and gives all parties the opportunity to present their respective accounts. The panel deliberates findings and recommendations which have to be responded to at Director level.

**2.12** The stages of the procedures above are governed by time limits. (shown at Table 11 and text at page 25 of this report).

**2.13** During the course of the reporting year the Department of Health reformed the statutory adult social care procedures to introduce a unified procedure across health and social care. The reforms were implemented on 1st April 2009. (The details of the reforms are reported in more detail at page 32 of this report.)

## **PART THREE – ADULT SOCIAL CARE COMPLAINTS, COMMENTS AND COMPLIMENTS 1 APRIL 2008 TO 31 MARCH 2009**

### **DATA ANALYSIS AND METHODOLOGY**

**3.1** The data provided within this document is taken from the Social Services Information Database (SSID). SSID is a live database that is constantly updated.

**3.2** Whilst every effort is made to ensure the accuracy of the information contained in this report, the live nature of the database can cause some anomalous results when providing reports on representations over a period of time as data can be entered retrospectively.

### **REPRESENTATIONS ANALYSIS FOR ADULT SOCIAL CARE**

**3.3** In order to contextualise the Representations made in Adult social care it is important to appreciate the level and complexity of the services provided by the Authority. In 2008/2009 the total number of adults who received a service (provision) was 19,775<sup>1</sup> (18-64 = 6580, 65+ = 13195). Each client will have multiple contacts over the course of one year.

**3.4** In 2008/09 the Authority received 77 formal complaints (8 of which were Stage Two complaints) about Adult social care services. As a proportion of the total number of contacts with service users and carers this represents a very small proportion.

**3.5** Whilst the numbers of complaints are relatively small this should not lead us to devalue the complaints that have been made. People, who make complaints, in our experience, do not do so lightly or frivolously. Bringing a complaint can be time-consuming, takes effort and can be very stressful and distressing even when the best efforts are made to make the procedures accessible and straightforward. Given this we are duty-bound to listen, learn and change as a result of the complaints we receive and to create an organisational culture where complaints are valued and used as examples of practical learning and to develop the quality of our services with policies and planning processes that continuously reflects this. Equally important is the need to have open and honest dialogue with clients and to see them as experts when it comes to understanding need and what works best.

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<sup>1</sup> Sourced from the 2009 RAP Return

## Numbers of Representations in Adult social care 2008/09

**3.6** In 2008/2009 a total of 355 Representations, (shown at Table 1 below) were made under the Adult social care procedures. Of the 355, 77 (21.7%) (69 Stage 1 and 8 Stage 2), 271 (76.3%) were compliments and 7 (2%) were comments.

Table 1

SERVICE AREA	COMMENTS RECEIVED	COMPLIMENTS RECEIVED	COMPLAINTS RECEIVED	
			Stage 1	Stage 2
Older People, MHSOP, PD& SI Services	1	87	42	6*
LD/MH/SM Services	0	20	9	1
Strategic Finance and Business Support	0	9	10	0
Provider Service	6	155	7	1
Commissioning	0	0	1	0
<b>TOTAL - 355</b>	<b>7</b>	<b>271</b>	<b>69</b>	<b>8</b>

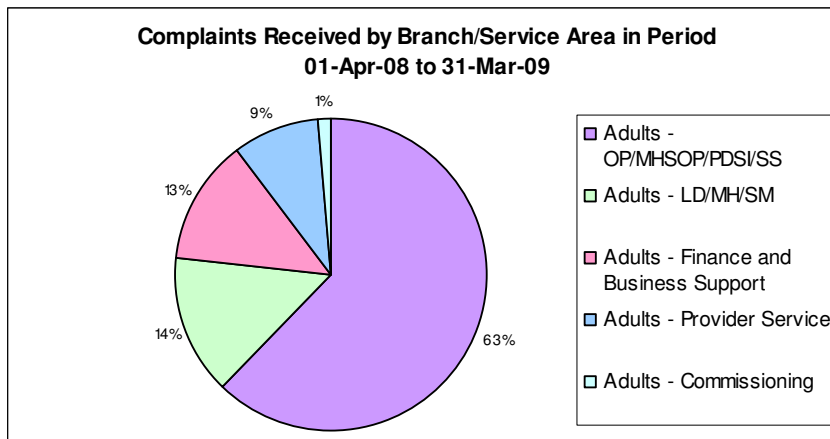
\*2 complaints entered directly at Stage Two of the procedures.

## Representations by Service Area

**3.7** The service area receiving the largest number of complaints is OP/MHSOP/PDSI representing 63% of the total number of complaints, followed by LD/MH/SM with 13%, Strategic Finance & Business Support with 13%, CDCS- provider services with 9% and Commissioning with 1%.

## COMPLAINTS

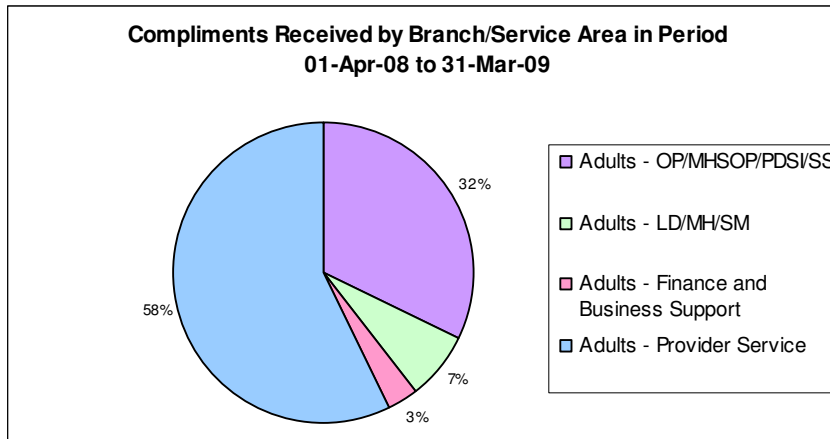
Illustration 1



**3.8** The service area receiving the greater number of compliments was CDCS - provider services at 58%, followed by OP/MHSOP/PDSI with 32%, LD/MH/SM at 7%, and F&BS with 3%.

**COMPLIMENTS**

**Illustration 2**



**3.9** The service area receiving the greatest number of comments was CDCS-provider services at 86% followed by OP/MHSOP/PDSI at 14%.

**3.10** The number of complaints received by OP/MHSOP/PDSI services, being the highest in comparison to other service areas, shows a consistent pattern over several years of reporting. Given that the majority of referrals to Adult social care services are of people aged 65 and over and given the demographic increase in the numbers of older people living longer the proportions are within the levels of expectation. (Table 1 and Illustrations 1 and 2 above show the comparisons across the service areas).

**3.11** Comments can be suggestions as to how a Service may be improved and in that regard are neither critical nor complimentary.

**3.12** Clients and Carers frequently make the effort to pay compliments to staff about the services received and it is noteworthy that compliments consistently exceed the number of complaints.

**3.13** In 2008/2009 the ratio of compliments to complaints was 3.5.

## Comments, Compliments and Complaints received from Service User Groups

**3.14** The following tables illustrate the breakdown of Comments/Compliments and Complaints received from Service User Groups across the service.

**Numbers of Comments Received By Service User Group** **Table 2**

Service Area	Learning Disabilities	Mental Health	Older People	Not Stated	Total
LD/MH/SM	0	0	0	0	0
OP/MHSOP/PDSI/SS	0	0	1	1	2
CDCS - provider service	5	0	0	0	5
<b>Total</b>	<b>5</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>7</b>

**3.15** The largest number of comments was made by service users in CDCS - provider services (71.5%)

**3.16** The largest number of compliments were paid by older people (60%) (at Table 3 below). Compliments are frequently directed at individual members of staff who are valued by the service user for the support given in maintaining independence. In residential care settings a common theme that has emerged from the compliments received is the importance of creating a homely environment where individual needs and preferences are recognised and activities that were enjoyed at home are provided within the care home setting. Relatives and Carers also pay compliments and extend thanks to staff for caring for their loved ones with dignity and compassion in the latter stages of their life.

**Number of Compliments Received by Service User Group** **Table 3**

Service Area	LD	MH	OP	PD	SI	SM	Not Stated	Total
F&BS			4	2			3	9
LD/MH/SM	13	1				6		20
OP/MHSOP/PDSI			55	9	17		6	87
CDCS – provider services	36		104				15	155
<b>Total</b>	<b>49</b>	<b>1</b>	<b>163</b>	<b>11</b>	<b>17</b>	<b>6</b>	<b>24</b>	<b>271</b>

**3.17** Older people constituted the largest service user group to make a complaint. Given that the highest proportion of service users are older people the figures are proportionate and fall within expected levels.

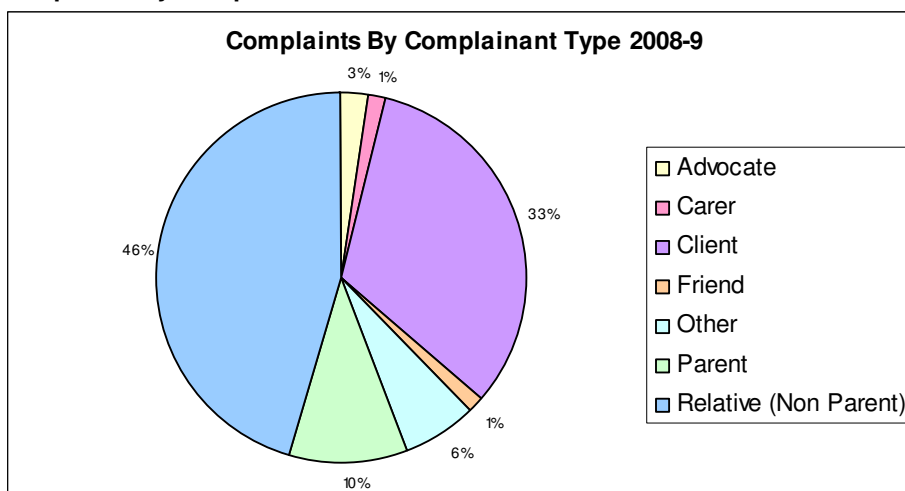


**Number of Complaints Received by Service User Group** **Table 4**

Service Area	LD	LD	MH	SM	OP	OP	PD	PD	Total
Stage	One	Two	One	One	One	Two	One	Two	
Comm'ing					1				1
F&BS	2				5		3		10
LD/MH/SM	6	2	2	1					11
OP/MHSO P/ PDSI	1				23	4	17	2	47
CDCS – provider services	2				2		4		8
<b>Total</b>	<b>11</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>31</b>	<b>4</b>	<b>24</b>	<b>2</b>	<b>77</b>

**Complaints by Complainant**

**Illustration 3**



**3.18** Illustration 3 above shows that the greatest proportion of complaints (46%) was brought by relatives (excluding parents) of the service user, a similar proportion to last year’s figures. Service users constitute the second highest proportion at 33% - a slight drop on last year’s figure at 35%.

**3.19** Adult Services contract with the Citizens Advice Bureau and its Representational Advocacy Service (RAS) through a Service Level Agreement (SLA). Under the SLA the RAS will provide advocacy in the representations procedure (and for service users in a range of other situations) for those complainants who request it. There has been a 2% increase in the number of complaints brought by advocates on behalf of service users. Complainants are advised upon receipt of their complaint of the service available to them through the RAS. Advocacy support can be essential in enabling a complainant to have their concerns articulated and thoroughly aired and explored in a supportive environment. We seek to

ensure that all those who might benefit from advocacy are pro-actively encouraged to access it.

**3.20** Table 5 below represents an overview of the status of complainants numerically.

**No. of Complaints by Complainant Type 2008-9 (With Stage of Complaint)**

**Table 5**

Complainant Type	Stage	F&BS	LD/MH/SM	OP/MHSOP /PDSI/	Comm'ing	CDCS – provider services	Total
Advocate	Two		2				2
Carer	One	1					1
Carer	Two						
Client	One	1	2	16		5	24
Client	Two			1			1
Friend	One		1				1
Other	One	1	1	1		1	4
Other	Two		1				1
Parent	One	2	3			1	6
Parent	Two		1	1			2
Relative (Non Parent)	One	5		25	1		31
Relative (Non Parent)	Two			4			4
<b>Total</b>		<b>10</b>	<b>11</b>	<b>48</b>	<b>1</b>	<b>7</b>	<b>77</b>

## DEMOGRAPHIC AND EQUALITY AND DIVERSITY OVERVIEW

### Age Profiles of Service Users Making Representations

**3.21** The Representations made by age group reflect demographic trends and are also indicative of the proportions by age of service users. The greatest number of compliments was made by women aged 85 and over, at 24%.

**Representations by Age and Gender**

**Table 6**

Rep Type	Female						Male					NS	Total
	0-17	18-64	65-74	75-84	85+	NS	18-64	65-74	75-84	85+	NS		
Comment		1			1	1	2				2		<b>7</b>
Complaint		18	8	13	7		18	3	6	4			<b>77</b>
Compliment	0	37	18	46	64	11	19	8	22	29	13	4	<b>271</b>
<b>Total</b>	<b>0</b>	<b>56</b>	<b>26</b>	<b>59</b>	<b>72</b>	<b>12</b>	<b>39</b>	<b>11</b>	<b>28</b>	<b>33</b>	<b>15</b>	<b>4</b>	<b>355</b>

NS=not stated

## Ethnicity and Diversity

Complaints by Ethnicity 2008/2009  
Table 7

Ethnicity	Complaint
White British	76
White/Other Background	1
Any Other Ethnic Group	0
<b>Total</b>	<b>77</b>

**3.22** One complaint out of 77 (1.3%) is recorded as being made by someone of minority ethnic origin. Given that the proportion of Black and Minority Ethnic Communities is less than 2.4% this figure is within the levels of expectation. As communities become settled and their demographic profile changes to include, for example, greater numbers of older people the proportions would be expected to change over a number of years.

**3.23** To achieve comprehensive monitoring the recording of ethnicity is now a mandatory field to be completed on the SSID. This development has been invaluable in ensuring 100% recording of ethnicity.

**3.24** It should be noted that the recording of ethnicity for compliments and comments is not always practicable due to the variety of methods that are used to communicate them and how they are received. If people write in or telephone with compliments, for example, ethnicity cannot be recorded as it is not known.

## FORMAL COMPLAINTS IN ADULT SOCIAL CARE

**3.25** Illustrated in table 8 below are the Stage One and Stage Two complaints denoted by service area.

Complaints denoted by Service Area		Table 8	
Complaints Received	Stage 1	Stage 2	
LD/MH/SM	9	1	
OP/MHSOP/DPSI	42	6	
CDCS – provider services	7	1	
F&BS	10	0	
Commissioning	1	0	
<b>Total</b>	<b>69</b>	<b>8</b>	

**3.26** The percentages of complaints that progressed to Stage Two in each service area are as follows:-

- 10% of the complaints received at Stage One within Learning Disabilities/Mental Health and Substance Misuse Services progressed to Stage Two of the procedure.
- 12.5% of complaints within Older People’s Service, Mental Health Services for Older People, Physical Disability and Sensory Impairment services were heard at Stage Two. This includes the two cases that entered the procedure at Stage Two because of their complexity.
- 12.5% of complaints within the CDCS - provider services progressed to Stage Two.

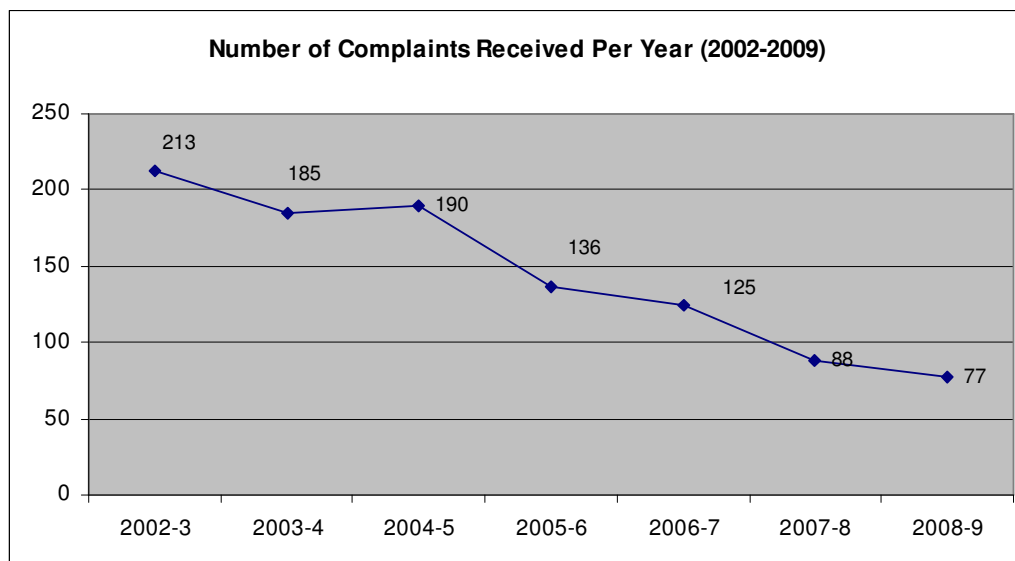
**Comparative Trends by Reporting Year**

**3.27** This year has again seen the year on year decrease in the numbers of formal Adult social care complaints that has characterised recent annual reports. The most likely reason for this has been the focus on the early resolution of concerns by staff who have worked hard to improve communications and seek advice and support in effective complaints resolution. The progress in this area has been a key factor in determining practice under the new adult care complaints procedure, implemented on 1st April 2009. This focuses on early communication, including face-to-face meetings, improved responsiveness and creative negotiation and conciliation to secure the early and informal resolution of concerns and complaints. (Table 9 below and Illustration 4 overleaf show the trends for comparison over the past five years.)

Comparative Trends by Reporting Year  
Table 9

Reporting Year	2002-3	2003-4	2004-5	2005-6	2006-7	2007-8	2008-9
Complaints	213	185	190	136	125	88	77

**Illustration 4**



**Note: This equates to a drop of 58.7% in Complaints in 6 Years.**

### **CAUSES OF COMPLAINT FOR SERVICE USERS IN ADULT SOCIAL CARE**

**3.28** Throughout the period from 1 April 2008 to 31 March 2009, Adult social care received complaints from service users and their representatives about a wide range of issues. (Table 10 and Illustration 5 below indicate a summary of the causes of complaints received). ***It should be noted that a complaint could have more than one category of cause denoted against it.***

**Table 10**

Complaint Classification 2008/09	Number of Complaints	Percentage
Application Of Service Guidance/Procedures	11	11.22
Conduct Or Attitude Of Staff	18	18.37
Lack Of A Service - Other	5	5.10
Lack Of Service - Access To Education	2	2.04
Lack Of Service - Change To Clients Service As Per Care Plan	2	2.04
Lack Of Service - Communications/Information	13	13.27
Lack Of Service - Contact/Visits	1	1.02
Lack Of Service - Restricted Choices Of Current Services	4	4.08
Other	3	3.06
Provision Of Service	3	3.06
Provision Of Service - Assessment	5	5.10
Provision Of Service - Consultation Process	1	1.02
Provision Of Service - Equipment	5	5.10
Provision Of Service - Handling Of Complaint	1	1.02
Qual. Of Service - Personal Care	11	11.22
Quality Of Service - Another Resident	2	2.04
Quality Of Service - Other	3	3.06
Quality Of Service - Personal Financial Issues	3	3.06
Quality Of Service - Transport	1	1.02
Quality Of Service - Work Of Other Agencies	2	2.04
Not Recorded	2	2.04

**3.29** The *conduct or attitude of staff* continues to constitute the largest category of complaint at 18%, which has remained static from last year.

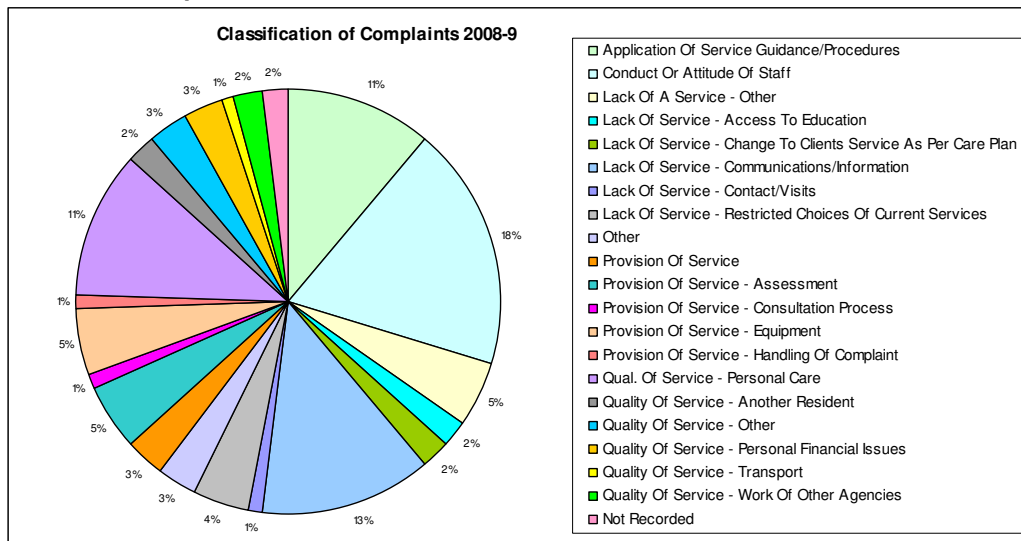
Examples of complaints in this category are:-

- A complainant wrote directly to the LGO about allegations that the Financial Protection Team was depriving a service user of their money. The person progressing the complaint was not the service user. The LGO referred the matter back for local resolution. Upon investigation the Financial Protection Team had assumed responsibility for the service user's finances following a Mental Capacity (MC) test. Arrangements were made for the service user to have another MC test to establish whether she had the capacity to make a complaint or consent to someone else making a complaint on her behalf. An advocate was appointed to ensure that the service user's interests were represented throughout. It was established that the service user lacked capacity on both counts and that she had no knowledge or understanding of the complaint made on her behalf. The person raising the complaint with the LGO was written to advising her of the actions taken and the outcome and that she had no legal standing to make a complaint. The LGO was copied in to the correspondence.
- A social worker was provided with information by a family member that raised concerns about whether care needs were being met for an older person being cared for by her son. A re-assessment was conducted to ensure that the levels of care provided were adequate in the light of the information received. It was explained that the social worker had a duty of care to ensure that the care arrangements were adequate and appropriate. The complainant accepted this explanation but in order to restore trust and confidence a different social worker was allocated to the case.
- A complaint from a service user of the Countywide Substance Misuse Team involved a breakdown in trust and confidence in her social worker. She considered she was not receiving the appropriate levels of support and there was poor communication. Upon investigation, the complaint was upheld. The service user was allocated a new social worker and a new assessment was conducted.
- A service user moved permanently from a tenancy into residential care and was assisted in this by care management staff and the Financial Protection Team, in the absence of family support. In order not to incur dual payment the cessation of the tenancy required urgent action. The service user chose the personal items that she wanted to take with her and stated that the rest could be disposed of. Some distant family were contacted to see whether they wished to take any of the remaining possessions and they indicated that they would like to have a look. When the date of the tenancy ceased the remaining items still in the house were disposed of. Had they not been, the housing authority would have charged a significant amount for disposal or there would have had to have been an extension of the tenancy. Subsequently the family made contact to arrange to have a look at the remaining items and complained when they were told that the house had been cleared. An apology was provided for contact not having been made to check

whether the family had been to look at the remaining items, before the tenancy ended. However, it was explained that any delay would have cost the service user a considerable amount of money either to continue the tenancy whilst the family made their arrangements or for the housing authority to be left with the responsibility of clearing the house.

**Causes of Complaints in Adult Services**

**Illustration 5**



**3.30** *Lack of a service (Communication/Information)* is the second highest category at 13%. Poor communication with, or a lack of information to, a service user can compromise the professional relationship and yet concerns that arise in this area can be readily resolved by ensuring that information is clearly imparted and this is reinforced by checking a service user’s understanding and, if necessary, following issues up in writing. Whilst this can be time-consuming it is less so than having to subsequently deal with a complaint’s investigation.

Examples of complaints about communications/information

- A family were consistently telephoning a learning disabilities team inappropriately leading to attempts to develop a ‘memorandum of agreement’ after a meeting where the concerns of both sides were aired. The agreement detailed the circumstances when it was appropriate for the team to be contacted and when it was not. The family did not like the way this was communicated and made the complaint. The complaint was partially upheld as it was felt that although the team’s concerns were legitimate, the whole issue could have been dealt with more sensitively. The matter has been addressed through supervision.
- A Social Circumstances Report prepared for a Mental Health Review Tribunal had juxtaposed some information which gave a misleading slant to issues in the report. The solicitor requested amendments to the report and this was agreed.

- The relatives of a service user believed that a Disabled Facilities Grant had been applied for and approved and relied upon that to make arrangements for decanting from the home that was to be adapted to enable the relative to move in with them. Due to a number of circumstances some outside the control of DCC, the DFG had not reached the approval stage and miscommunication had occurred. A recommendation arising from this case is that only experienced staff should be allocated complex cases.
- A learning disabled client complained that he no longer had the choice of which member of staff supported him on holiday. A full explanation was provided as to why this arrangement was no longer possible and this was accepted.
- A service user complained that her place on the bus to a Day Centre had been lost in the time that she had been re-allocated from one social worker to another. Upon investigation it transpired that the loss of the transport was due to a re-assessment and application of the new transport policy. The service user was in receipt of higher rate mobility allowance and therefore no longer met the criteria for free transport. It could be evidenced that written and verbal explanations had been provided from the time of the re-assessment.

**3.31** The *quality of personal care* category constitutes 11% of the total, which is a slight decrease on last year. Examples include:-

- Carers from an independent agency had omitted to prompt a client to take her medication. This was referred to the safeguarding procedures and a comprehensive investigation completed. As a result of the complaint the agency have provided training for their carers in the prompting and recording of medication.
- A client in residential care had been told she could not have her meals in her room whilst she was unwell. This was not the case and arrangements were made immediately for her meals to be delivered to her and apologies given.
- A carer complained about the charges incurred when her husband spent some time in a residential care setting following hospital discharge. The delay in conducting the financial assessment was found to be unreasonable and in consequence the charges were waived.

**3.32** Also at 11% is the category *application of Service Guidance/Procedures* In this category the following example arose:-

- A complainant sought access to records under the provision of the Data Protection Act 1990. In collating the record archived information and emails were not provided, leading to a formal complaint about the incomplete disclosure of the record.



## ACHIEVING TIMESCALES

### Acknowledgements

**3.33** Of the 71 receipted complaints (69 Stage Ones and 2 Stage Twos) 67 (94.4%) were acknowledged within the 5 working day timescale. The four which were not logged as acknowledged within timescales were all received within a locality or care setting rather than through the Central Administrative Team.

### Stage One

**3.34** The completion timescales for Stage One Complaints (Shown in Table 11 below) should be completed within 10 working days, extending to a maximum of 20 if there are prevailing reasons why completion cannot be within the minimum period, and if agreed with the complainant.

Stage 1 Complaints Received in 2008-9 Completed Within Timescales

Table 11

Service Area	0 - 10 Days	11 - 20 Days	21+ Days	Still Being Investigated
F&BS	5	5	0	0
LD/MH/SM	2	5	2	0
OP/MHSOP/PDSI/SS	14	13	15	0
Provider Service	3	2	2	0
Commissioning	0	0	1	
<b>Total</b>	<b>24</b>	<b>25</b>	<b>20</b>	<b>0</b>
<b>Percentage</b>	<b>34.8%</b>	<b>36.2%</b>	<b>29%</b>	<b>0</b>

\*Investigations still being investigated refers to complaints received at the end of the reporting year which will be completed within the following year.

**3.35** The overall performance for completion within 10-20 working days was on target at 71% overall - a pleasing improvement on last year's performance at 59.3% and 47.3% the year before. The reasons for complaints exceeding completion timescales are varied: the non-availability of the complainant; staff unavailable for interview; the complexity of the investigation; and involvement of external agencies. The new procedures provide flexibility of timescale for completion that have to be agreed with the complainant and in that regard provides a more person-centred approach to complaint's resolution.

### Stage Two

**3.36** Stage Two complaints investigations have completion timescales of 25 – 65 working days from the date that the request to progress to the next stage is received. During 2008/2009 2 Stage Two investigations were completed within the 25 day timescale and 2 in the 65 day timescale. Three investigations were concluded outside of the timescale. The reasons for this, however, were beyond the Authority's and Investigating Officers' control. In these cases delays were either incurred at the request of the complainants; because of the involvement of external agencies; and/or the complexity of the

investigation. The complaint denoted as 'still being investigated' is significantly overdue but this has been because of the complainant being unavailable by reason of family difficulties. In such circumstances we always seek to accommodate the complainant's needs and wishes where it is unlikely that a delay will compromise the integrity of the investigation and the reasons are genuine.

**Stage Two Complaints Received in 2008-9 Completed Within Timescales: Table 12**

<b>Service Area</b>	<b>25 Working Days</b>	<b>65 Working Days</b>	<b>Over 65 Working Days</b>	<b>Still Being Investigated</b>
<b>LD/MH/SM</b>	1	0	0	0
<b>OP/MHSOP/PDSI</b>	1	1	3	1
<b>PS</b>	0	1	0	0
<b>Total</b>	2	2	2	1
<b>Percentage</b>	25%	25%	37.5%	12.5%

### **Stage Three**

**3.37** No Stage Three Review Panels were held during the year. Stage Three Review Panels have been abolished in the new procedures so no more will be held. Instead an unresolved dispute will be referred directly to The Local Government Ombudsman if Local Resolution is unachievable.

### **Local Government Ombudsman**

**3.38** The Local Government Ombudsman's annual letter to Durham County Council was published in June 2009.

**3.39** In the reporting year 5 complaints were considered by the LGO about adult social care services. This compared with 2 complaints in 2007/2008, 3 complaints in the year 2006/2007 and 5 in 2005/2006.

**3.40** Two cases were also received by the LGO but referred back due to their being premature.

**3.41** In all five cases no evidence of maladministration was found and the complainants were advised accordingly.

**3.42** In Adult social care, improvements in response times and the quality of responses to Ombudsman enquiries have been prioritised. It is therefore pleasing to note that Durham County Council's performance against the 28 day target set by the LGO on response timescales have improved significantly. Responses now average 16.6 days.

## **PART FOUR - OUTCOMES AND LEARNING FROM ADULT SOCIAL CARE COMPLAINTS AND REPRESENTATIONS**

### **COMPLAINTS**

**4.1** The following examples illustrate the invaluable learning that accrues from the complaints that people raise and how outcomes are achieved to the benefit of the service user. Due to confidentiality issues detail of the various complaints exemplified below are not provided as each complaint is unique and could contain identifiers. The examples provided illustrate a snapshot of the issues complained about, and the outcomes and learning points that have informed future policy and practice.

#### **Communication/Information**

- A review was conducted of how aids and equipment are logged on the Home Equipment Loans Service data base to ensure that equipment recommended by Adults, Wellbeing and Health or Health Colleagues is identified and appropriately maintained.
- Social Workers have been reminded, when taking over the management of a case, to introduce themselves personally to Service Users and their families within reasonable timescales. (It is acknowledged that in some instances a Service User may not wish the Social Worker to engage directly with their family.)
- Advice has been circulated that, where possible, Social Workers meet with Service Users and their families prior to review meetings. In exceptional circumstances where this is not possible staff will be required to provide reasons why such meetings are either not possible or not in the clients best interests.
- Staff to be reminded that Care Plans must be accurate and updated to reflect the Service Users actual needs at any given time.

#### **Assessment**

- All staff have been issued with a reminder of the importance of the duty of care with regard to Carers and to ensure that staff have advised carers of their right to request a carer's assessment of need and to record and date the response from the carer.
- Where there is a terminal degenerative illness, the progression of the illness and likely future requirements should also be taken account of during assessment rather than just the immediate presenting needs. A review of specialist medical involvement in such cases has taken place.

#### **Policies and Procedures**

- New guidance was developed to ensure that information on Disabled Facilities Grant applications is routinely maintained on a client's record.
- A review of the practice guidance *Durham and Darlington Joint Guidelines for Equipment and Adaptations* was conducted and service users are now made aware of the range of equipment available to facilitate informed choice. Also service users are informed of their right to appeal decisions and recommendations made by Adults, Wellbeing and Health.

- Staff have been reminded **all** records must be located and provided (subject only to legislative requirements), including electronically archived material and email correspondence when complying with an access to records request.
- Engagement with appropriate adjacent health and social care authorities occurred through the Strategic Health Authority to ensure that the application of the Mental Capacity Act 2005 is compatible across the different agencies that are 'out of area' but where County Durham residents may access health care. Copies of the findings of a complaint that involved mental capacity issues were provided to adjacent PCTs and NHS Trusts to inform the issues. Guidance Notes on the Mental Capacity Act are to be reviewed to ensure that legal advice is sought early in disputed cases, and that the right to use the Court of Protection is presented as a positive and helpful option for clients of the service.

#### **4.2 Compensatory Redress**

In a small number of cases redress has included compensatory payment in this reporting year. In one case a compensatory payment was approved by the Standards Committee for the loss of a forensic learning disabilities step-down placement.

In another case a compensatory offer was made for failings in recording and incorrect information being provided on access to records, following the recommendations of a Stage Three Review Panel. The complainant declined this as derisory and referred their case to the LGO. The LGO held that the offer was reasonable but the complainants have not availed themselves of the compensatory payment.

There have been a number of small amounts in reimbursement of costs incurred to pursue an issue where financial loss can be shown. Also in a small number of cases F&BS have revised charges where failings have been present in the provision of care or delays in assessment.

It should be stressed that compensatory redress will only be considered where there is very strong evidence of shortcomings that may be construed in the Local Government Ombudsman's definition of maladministration. We recognise, however, that where our responsibility for failings, that have caused losses and significant emotional distress, is clear, our duty is to acknowledge that and avoid further distress to the complainant.

#### **4.3 Safeguarding Adults and the Inter-Relationship with Complaints**

Throughout the year a small number of complaints have, following assessment of the circumstances with the Responsible Officer, been referred for a Safeguarding Strategy Meeting. Once this process has been completed any outstanding issues not dealt with have then been reconsidered under the complaints procedure, where this remained appropriate.

**4.4** The report highlights a number of areas where improvements in services for individuals and a wider cohort of service users have directly resulted from representations being made.

**4.5** Responsiveness to representations, and an organisational culture that receives and deals with representations positively and creatively, will ultimately result in a genuine partnership with service users. This will produce services that are led by the needs of users, rather than the needs of the organisation. For staff, learning from representations, especially complaints, which can be very stressful for those involved, should be conducted in a supportive environment to ensure that lessons learnt are valued and implemented.

**4.6** Much progress has been made over the years in creating an organisational culture that has shifted from a blaming and closed culture to one that is open and fair and work must continue to secure further development in this area.

## **COMPLIMENTS**

**4.7** The large number of compliments in Adult social care is illustrative of the good practice that exists and the value placed upon the service and staff by service users and carers. It is important that staff know that they are appreciated and acknowledged.

**4.8** Themes arising from compliments are illustrated below:

- Appreciation of the quality of care provided to individuals by staff in residential and domiciliary care services;
- the support given by staff, to carers and service users, following family bereavement;
- how complaints were handled;
- assisting service users to secure independent living accommodation;
- the high quality of care and rehabilitation in intermediate care settings.

Reproduced in a quarterly report, the poem below, composed by a service user for her care workers exemplifies the time, effort and thought that goes into making a compliment count and the difference professional staff make in the lives of people.

*"I have two which I would not change,  
They seem to know my needs whatever the range.  
They are worth their weight in gold,  
But that is something they haven't been told!  
I wouldn't change for any others.  
They treat their job as they would their mother.  
A medal for them is long overdue,  
Without them I cannot imagine what I would do  
I can honestly say before I am laid to rest  
Without a doubt, I've got two of the best."*

## **PART FIVE - ONGOING DEVELOPMENTS**

**5.1** The implementation of a new complaints procedure from 1<sup>st</sup> April 2009 has resulted in significant changes to the way Adult social care complaints are managed, progressed and resolved. Ongoing work in the development of policies and procedures, information and communication is a primary focus for the Complaints Officer in coming months as the new systems roll out and are subject to appraisal and review. The key characteristics of the new procedure are as follows:-

- The complaints procedure in Adult social care and health are now identical and there is a statutory duty placed on health and local authorities to cooperate where a complaint spans both organisations.
- The procedure now involves just two stages – Local Resolution and Local Government Ombudsman.
- Local Resolution must utilise whatever dispute resolution mechanisms are available and appropriate to resolve the complaint satisfactorily. This includes meetings, informal and formal conciliation and mediation, independent investigations, compensatory awards and apologies. Each complaint must be judged on its merits and the resolution mechanisms must be proportionate to the issues complained about.
- With the exception of a prescribed timescale of 3 working days to acknowledge a complaint, completion timescales must be agreed with the complainant and are therefore unique to each complaint.
- All complaints must be risk-assessed on receipt.
- Where possible, and desired by the complainant, all complainants should be personally contacted and a Complaints Resolution Plan (CRP) discussed. This involves clarifying and checking the individual issues within the complaint and extracting the desired outcomes, discussing how realistic these are and agreeing timescales.
- The CRP can be revisited during the complaint's journey and can be revised where appropriate.
- Where Local Resolution fails and the complainant remains dissatisfied they can refer the issue to the Local Government Ombudsman.

Complaints continue to be logged by the Central Administrative Team but they are then passed to the Complaints Officer who conducts the Risk Assessment and completes the CRP before allocating to the responsible manager for investigation.

Early experience suggests that the new procedure is having a significant effect on responsiveness, the person-centred approach and satisfactory resolution.

**5.2** The relationship between complaints and the Safeguarding Procedures continues to be close and the new risk assessment procedures ensure fast-tracking of concerns.

**5.3** There is ongoing work to further develop:-

- information, to raise awareness for service-users and staff
- publicity and marketing materials
- training for staff including conciliation and mediation training and support
- an IT performance framework
- policy and practice guidance

## **PART SIX - NATIONAL AND LOCAL DEVELOPMENTS**

### **NATIONAL DEVELOPMENTS**

**6.1** The Department of Health are continuing to produce good practice guidance and experience updates on the 2009 complaints procedure reforms during the implementation period from 1<sup>st</sup> April 2009. The Local Government Ombudsman is to hold a series of seminars to discuss good practice and early experiences in the summer of 2009.

**6.2** A further consultation on a complaints procedure for self-funding adult social care clients in the independent sector will be issued by the Department of Health in late 2009 with a proposed implementation date of 1<sup>st</sup> April 2010.

### **LOCAL DEVELOPMENTS**

**6.3** The County Council's Standards Committee continues to be involved in the scrutiny of complaints. This has recently been reconstituted in recognition of the changes coming from the LGR arrangements. Members monitor the numbers and content of all representations. Particular focus is placed on complaints that relate to staff conduct/attitude issues to ensure that there are no recurring themes that are not being addressed.

**6.4** The Authority has a Service Level Agreement with Durham CAB's Representational Advocacy Service. Independent advocacy services are provided to service users, carers and their representatives who wish to pursue complaints. The service is free of charge and should be made available to all complainants who wish to be supported in the process. The service also covers advice and support in respect of non-complaints issues.



## **PART SEVEN - CONCLUSION**

**7.1** The Service receives a large number of representations each year. This is predictable given the nature of the services, which are provided at difficult times in people's lives, and representations are a valuable source of feedback to inform service improvement. This Annual Report indicates positive achievements in performance in the handling and consideration of representations, including complaints, during the year 2008/2009 and also recognises the need to strive for continuous improvement.

**7.2** Acknowledgements are made and thanks given to the following contributors to Representations in the year:

- All service users who have contributed to our service developments by making representations.
- Staff, Managers and Senior Management Team who have increasingly recognised the importance of addressing concerns responsively and been prepared to learn from the compliments and concerns of service users.
- The Representational Advocacy Service which provides invaluable support and advice to service users and enables concerns to be clarified and articulated.
- The Performance Management Team who have enabled data to be more accurately recorded and collated.
- Members of the Authority's Standards Committee who objectively scrutinise Representations and ensure that trends are recognised and acted upon.

## GLOSSARY OF ABBREVIATIONS

<b>AW&amp;H</b>	Adults, Wellbeing and Health
<b>CAB</b>	Citizens' Advice Bureau
<b>CDCS</b>	County Durham Care and Support
<b>CRP</b>	Complaints Resolution Plan
<b>CSCI</b>	Commission for Social Care Inspection
<b>DCC</b>	Durham County Council
<b>DH</b>	Department of Health
<b>F&amp;BS</b>	Finance & Business Support
<b>IO</b>	(Stage 2) Investigating Officer
<b>IT</b>	Information Technology
<b>LD</b>	Learning Disabilities
<b>LGO</b>	Local Government Ombudsman
<b>MH</b>	Mental Health
<b>MHSOP</b>	Mental Health Services for Older People
<b>MPs</b>	Members of Parliament
<b>NHS</b>	National Health Service
<b>OP</b>	Older People
<b>PDSI</b>	Physical Disability and Sensory Impairment (services)
<b>P&amp;P</b>	Planning and Performance
<b>QA</b>	Quality Assurance
<b>RAP</b>	Referrals, Assessments and Provisions (Return)
<b>RAS</b>	Representational Advocacy Service
<b>RCH</b>	Residential Care Home
<b>SI</b>	Social Inclusion
<b>SLA</b>	Service Level Agreement
<b>SM</b>	Substance Misuse
<b>SSID</b>	Social Services Information Database