

Adult and Health Services

Annual Statutory Representations Report
Adult Social Care Services 2016/17

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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 2016 to 31 March 2017.

The report is published under the provisions and requirements of the relevant regulations: the *National Health Service Complaints (England) Regulations 2009*¹. This introduced a single joint complaints process for both social care and health services where there are no fixed timescales for managing a complaint and 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 Ombudsman. The regulations also introduced a duty for health and 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 and their carers 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 2016/17 the Quality Assurance Manager fulfilled the role of 'Complaints Manager' in accordance with the requirements of the regulations, managing a team of two Complaints Officers. The Complaints Team was independent of social care services' operational line management, thus ensuring a high level of independence in the way social care complaints are managed within the Council.

¹ Statutory Regulations for the management of complaints only apply to complaints about **social care** provision, as defined in community care legislation, not to any other service within the Authority. The Regulations **prescribe** how social care complaints must be managed and progressed, hence children's and adult social care complaints are referred to as 'statutory complaints'. All other complaints received by the Local Authority are dealt with under the corporate complaints procedures. Whilst for 'corporate complaints' there is a duty placed upon a Local Authority to have a complaints procedure, how such complaints are managed is not prescribed by Regulations. Each Local Authority can determine how it manages its non-statutory (or corporate) complaints.

Part Two - Summary of key messages

This is the first Annual Representations Report written solely in relation to Durham's adult social care services since the disaggregation Children and Adults Services (CAS) into AHS and CYPS.

The key headlines from this report are as follows:

- There has been an increase in complaints investigated, from 73 in 2015/16 to 87 in 2016/17.
- A further 5 complaints were received during 2016/17 which were declined by the Local Authority, the same number as the previous performance year.
- There were 3 complaints to Health Services where AHS were asked to contribute information to the joint investigation to inform upon the responses issued by Health.
- Older People/ Physical Disabilities/Sensory Impairment received 49.5% of the overall complaints about adult social care services.
- A disputed decision where a service user disagrees within an explanation or decision was the most common reason for making a complaint (10.5%).
- The Local Government Ombudsman reached a decision on 19 adult social care complaints during 2016/17.
- The service received 183 compliments about adult social care services during 2015/16, a small decrease from 184 in 2015/16.
- The majority of compliments (50.2%) received were in relation to County Durham Care and Support.
- Complaints continue to provide invaluable information and learning from which adult social care services can improve. Some examples of which are detailed below:
 - Best interest procedures and processes for involving an Independent Mental Capacity Advocate (IMCA) were revised and recirculated to staff.
 - A flaw in the invoicing process linked to circumstances where care charges have been waived was identified and corrected.
 - Staff were reminded to clearly communicate the criteria for receiving an Intermediate Care Plus service to ensure this is comprehensively explained to service users.

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 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 Local Government Ombudsman (LGO).

Whilst a complainant can refer their complaints to the LGO from the outset, the LGO 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 involve the Parliamentary and Health Service Ombudsman (PHSO).

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

We received 87 complaints during 2016/17, an increase from 73 in 2015/16.

Five complaints were received during 2016/17 which were declined by the Local Authority, 3 being outside of timescales and submitted more than a year after the incident that generated the complaint. The remaining 2 were submitted by third parties who did not have the service user's permission to make a complaint about the services received.

A further 3 complaints were received for which the following NHS Foundation Trusts - Tees, Esk and Wear Valley; County Durham and Darlington and City Hospitals Sunderland took lead responsibility in accordance with joint protocol arrangements. As the majority of the complaint issues were for each Trust to resolve, AHS contributed information on the Council's actions and decision making. These complaints will be reported accordingly by the NHS Foundation Trusts.

Number of complaints received by service area 2016/17

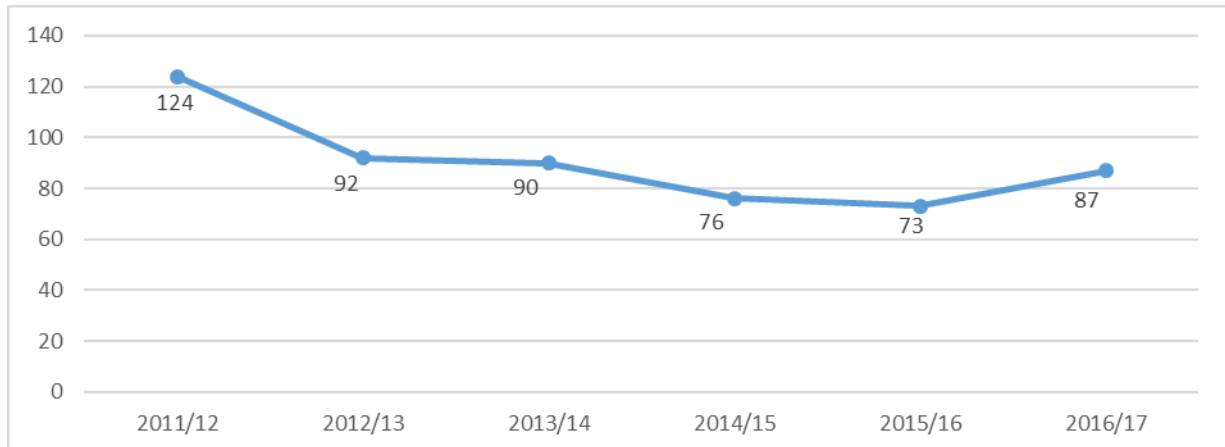
Service Area	Number of Complaints 2016/17	Number of Complaints 2015/16	% of Total Complaints 2016/17	% of Total Complaints 2015/16
Older People/ Physical Disabilities/Sensory Impairment	43	32	49.5%	43.8%
Learning Disability/Mental Health/Carers/Substance Misuse	26	15	29.9%	20.6%
Commissioning	8	10	9.2%	13.8%
County Durham Care and Support	0	2	0%	2.7%
Safeguarding, Practice Development & Access	2	3	2.3%	4.1%
Finance*	7	9	8%	12.3%
Emergency Duty Team/Social Care Direct	1	2	1.1%	2.7%
Total	87	73	100%	100%

**Finance is no longer part of AHS but the complaints were regarding statutory services*

As in previous years, the service receiving the greatest number of complaints was Older People/Physical Disabilities/Sensory Impairment, followed by the Learning Disabilities/Mental Health/ Substance Misuse service area.

The graph below shows the number of complaints received by adult social care services over the last 6 years. There has been an increase to levels experienced 3-4 years ago. In the last year there has been a 19.2% increase in complaints. This increase is primarily linked to Learning Disability/Mental Health/Carers/Substance Misuse where there was a 73.3% increase from 15 to 26 complaints. Older People/Physical Disabilities/Sensory Impairment complaints rose by 34.4% from 32 to 43.

Year on year trend - adult social care complaints 2011 – 2017



Complaints completed within timescales

Complaints Resolution Plans (CRPs) were completed in all of the 87 complaints received in the year. The CRPs included timescales for response and are calculated based upon the potential complexity of the case. Of the 87 complaints received, 85 were responded to at the time of writing this report. Eight complaints were completed outside of the timescales agreed with the complainant, explanations and apologies were given on every occasion.

Categories of complaints received and findings in 2016/17

When complaints are received they are recorded and categorised according to the subject matter of the issues raised. Detailed below is the outcomes of complaints in 2016/17 in the associated categories (the highest total are shown in bold):

Complaint Category / Issue	Upheld	Partially Upheld	Not Upheld	Total
Confidentiality	-	1	1	2
Disputed Decision – disagreement with an action	1	2	3	6
Disputed Decision – disagreement with an assessment	-	4	6	10
Disputed Decision – disagreement with an explanation or decision	2	3	13	18
Eligibility criteria	-	-	1	1
Finance – Assessment	2	-	5	7
Finance – Charging policy	2	2	6	10
Finance – Direct Payment	-	1	2	3
Lack of Communication – no information received	1	3	7	11
Lack of Communication – not informed of meeting details/change	-	1	-	1
Lack of Communication – not updated about case	-	2	3	5
Lack of Communication – unreturned phone calls/texts	1	2	1	4
Lack of Communication – other	-	1	-	1
Lack of Explanation / Explanation not understood	2	4	2	8
Lack of Service – change to clients service	-	-	3	3
Lack of Service – contacts/visits	-	1	1	2
Lack of Service – denied service	1	2	2	5
Lack of service – restricted choices of current services	1	1	2	4
Provision of Service – assessment	-	1	2	3
Provision of Service – equipment	-	-	2	2
Provision of Service – placement provision	-	1	1	2
Quality of Service – missed/late domiciliary care calls	-	1	-	1
Quality of Service – missed or incorrect medication	-	-	1	1
Quality of Service – work of other agencies	2	2	1	5
Refusal of service	-	-	3	3
Safeguarding	1	1	2	4
Speed of Service	2	5	2	9
Staff Attitude	1	6	6	13
Staff being or seeming to be untruthful	2	-	1	3
Staff not acting in best interest of service user	2	7	6	15
Staff not adhering to statutory timescales or responsibilities	-	-	1	1
Staff being or seeming to be biased	-	1	-	1
Staff being or seeming to be untruthful	-	2	1	3
Standard of care	1	3	2	6

The above categories were expanded at the beginning of this performance year to more accurately reflect the different types of issues that are raised through complaints.

It should be noted that a complaint can have more than one category assigned to it and during the year, a *disputed decision* where a service user disagrees within an explanation or decision was the most common reason for making a complaint (10.5%). As an example, a service user may have a reduction in their services as a result of an assessment and wishes to challenge this.

Staff not acting in the best interests of the service user (8.8%) and *staff attitude* (7.6%), where a service user perceives a member of staff to have been rude or disrespectful, were the second and third most common reasons for making a complaint. This is consistent with previous years where the categories of *disputed decision* and *professional conduct of staff* were the most common reasons for making a complaint.

Outcome of complaints by service area 2016/17

Service Area	Upheld	Partially Upheld	Not Upheld	Ongoing	Total	Not Upheld as a % of Total	Upheld/Partially Upheld as a % of Total
Older People/ Physical Disability & Sensory Impairment	5	21	17	0	43	19.5%	29.9%
Learning Disability/ Mental Health / Substance Misuse	3	4	18	1	26	20.7%	8.1%
Safeguarding, Practice Development & Access	0	0	2	0	2	2.3%	-
Commissioning	2	3	2	1	8	2.3%	5.7%
County Durham Care and Support	0	0	0	0	0	-	-
Finance*	2	0	5	0	7	5.7%	2.3%
Emergency Duty Team/Social Care Direct	1	0	0	0	1	-	1.1%
Total	13	28	44	2	87	50.6%	47.1%

(2.3% ongoing)

In 2016/17, more than half the complaints received were not upheld, meaning that although the complainant was dissatisfied in some way, the service had acted appropriately. Of the 87 complaints, 15% of complaints were fully upheld.

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 the report.

Part Five - The Local Government Ombudsman

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

Complaints considered by the Local Government Ombudsman 2016/17

Service Area	Upheld	Partially Upheld	Not Upheld	Declined/ No Action	Ongoing	Total
Older People/ Physical Disability & Sensory Impairment	2	2	1	2	2	9
Learning Disability/ Mental Health / Substance Misuse	2	-	3	1	2	8
Safeguarding, Practice Development & Access	-	2	-	-	-	2
Commissioning	1	-	1	1	-	3
Finance*	-	-	1	-	-	1
Total	5	4	6	4	4	23

During 2015/16, the LGO liaised with the Council in relation to 23 adult social care cases that had been referred to them as complaints and came to a finding in 19 of these of cases:

- In two cases, the LGO referred the complainant to the Council, as they had not raised their issues with the Local Authority, closing the complaint as premature.
- The LGO decided not to investigate one case on the basis that the service user (now deceased) had capacity when alive to make decisions and the Council had acted correctly.
- The LGO took no further action in one case after the Council took action to encourage the service user to work with a care provider to resolve their issues.
- In one case, the LGO found some fault, which caused injustice. The case involved the inappropriate use of Direct Payments and the Council's attempts to recover the monies. The LGO recommended that the Council should not waive repayment of the amount owed, but should pay £100 in acknowledgement of failure to complete an annual audit.
- The LGO found the Council was at fault for not considering a complainant's version of events when it acted in response to a safeguarding alert. This led it to serve a letter based on an incomplete understanding of the facts, leading to avoidable distress for which the Council apologised and placed a statement on its records to reflect the flaws in its investigation.
- The LGO found fault causing injustice due to a delay in the Council carrying out a review of a service user's care needs and for failing to accurately record their contacts with the Council. As a result, it recommended the Council pay £100 as a remedy for the uncertainty caused.
- The Council accepted that it failed to properly consider whether a service user would have benefited from free intermediate care services and agreed to waive

the fees for the period that they could have received intermediate care, which was considered by all parties to be a suitable remedy to the complaint.

- The Council was found to be at fault in the care it provided, however the LGO also found this did not cause the service user any significant injustice.
- The LGO found fault with the way a commissioned service provider had transferred a vulnerable woman from one residential care home to another, however the LGO was satisfied that this did not have a significant impact upon her care.
- The LGO found no fault in the Council's decision to assume the service user had mental capacity to discuss his finances and the way the Council calculated his care charges, but the Council was at fault for not communicating the Continuing Health Care (CHC) funding process clearly to his wife.
- The LGO found fault causing injustice when the Council delayed investigating concerns about breaches of confidentiality by a Social Worker and failed to involve the family in a visit to see the service user in a care home, as agreed.
- The Council delayed carrying out transition assessments when a young person was nearing being 18 years old and then withdrew weekly overnight respite sessions for almost three months. The LGO found fault causing injustice and instructed the Council to apologise, review its procedures and pay the young person's mother £1000 for the lost respite and her time and trouble in having to pursue the matter.

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 remedies for resolution in the reporting year are as follows:

- A service user's representative indicated that a Social Worker's communication with them was not to the standard they would expect, especially given the fact that they held Power of Attorney. As a result of the complaint, the worker used the feedback received to reflect upon their own professional practices in conjunction with their line manager and both offered an apology.
- An apology and explanation was given for an unacceptable delay in providing information to a solicitor, accepting that this prevented the completion of the administration of the (late) service user's estate. This was due to the solicitor's letters being filed in error. The oversight was brought to the attention of the staff involved.
- A case review as part of a complaints investigation led the Responding Officer to conclude that there was a potential requirement for a higher level of support than had been offered to the service user. The case was re-examined to consider the service user's support requirements and the Team Manager made contact within 7 days to confirm further support was required.
- The best interest procedures and processes for involving an Independent Mental Capacity Advocate (IMCA) were reviewed, so that consideration is given to an IMCA's involvement in cases where there is serious family conflict/discord. The revised procedure was made available to staff on the Intranet and all managers were asked to ensure their staff were familiar with the updated document.
- Supported by the Council's Commissioning Team, a care home took steps to improve services to residents by providing guidance and training to staff on setting up and operating pressure mats. They also instigated improvements to working practices to ensure the accurate, appropriate and timely completion of all records. This included sleep charts, Medical Administration Records and incident/accident records for each resident. An audit of all care plan documents was also undertaken to ensure they were being completed accurately and in sufficient detail to enable ongoing monitoring of care provided and any associated risks.
- In scrutinising the procedure used to ensure invoices are not issued where charges have already been waived, it became apparent that there was a flaw in this internal process and immediate steps were taken to remedy this issue.
- In liaison with district nursing staff, the service reviewed procedures, work instructions and training material to ensure they are very clear and specific in

detailing that the responsibility for assessing and managing skin integrity and pressure sores falls to the care team (not district nursing staff).

- The Intermediate Care Plus Manager undertook a piece of work with the team to look at the issue of service user capacity, recording and the conducting of formal capacity tests to improve staff knowledge in this area.
- Note issued to remind teams they must ensure that they clearly communicate the criteria for receiving an Intermediate Care Plus service. In particular, when service users are admitted to hospital during a period of service provision and that it is clearly understood that the service given is based on assessed need and can be for up to six weeks and not six weeks as a matter of course.

Compensatory payments were made where failures constituted maladministration and/or injustice as defined by the Local Government Ombudsman. These are detailed within the Local Government Ombudsman section in Part Five of the report. It should be noted that compensatory redress was only considered (and agreed in line with the Council's Scheme of Delegation) where there was strong evidence of shortcomings.

Meetings with managers have continued to be an effective method in satisfactorily concluding complaints.

It is recognised that where adult social care services is 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 complaints responses issued, full explanations and where appropriate, apologies were offered.

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.

We received 183 compliments during 2016/17, a small decrease from 184 in 2015/16.

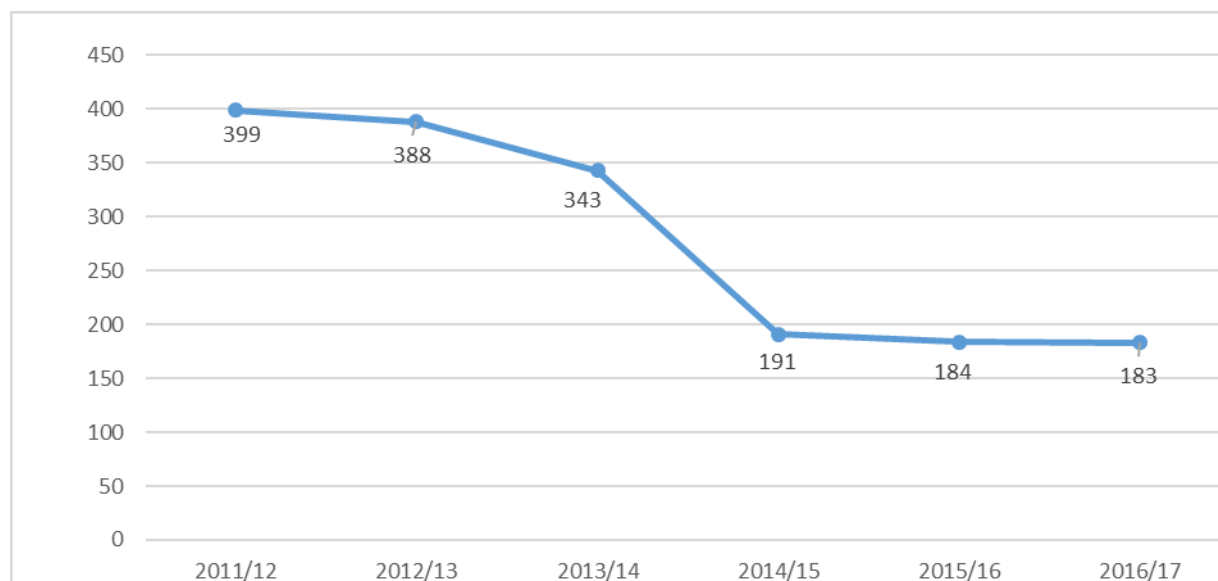
As shown in the table below, the majority of the compliments in both 2015/16 and 2016/17 were for County Durham Care and Support (CDCS), the in-house provider services.

Total number of compliments by service area 2016/17

Service	Total Compliments 2016/17	Total Compliments 2015/16	% of Total Compliments 2016/17
Older People/ Physical Disabilities/ Sensory Impairment	85	41	46.5%
Learning Disability/Mental Health/ Carers/Substance Misuse	6	6	3.3%
County Durham Care and Support	92	136	50.2%
Emergency Duty Team/Social Care Direct	0	1	0%
Total	183	184	100.0%

Historical data shows that a reduction in the number of compliments received has levelled out over the last 3 years after a sharp fall in 2014. This decline was considered at the time and it was determined to be associated with changes in the types of provision provided by County Durham Care and Support.

Year on year trend - adult social care compliments 2011 - 2017



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.

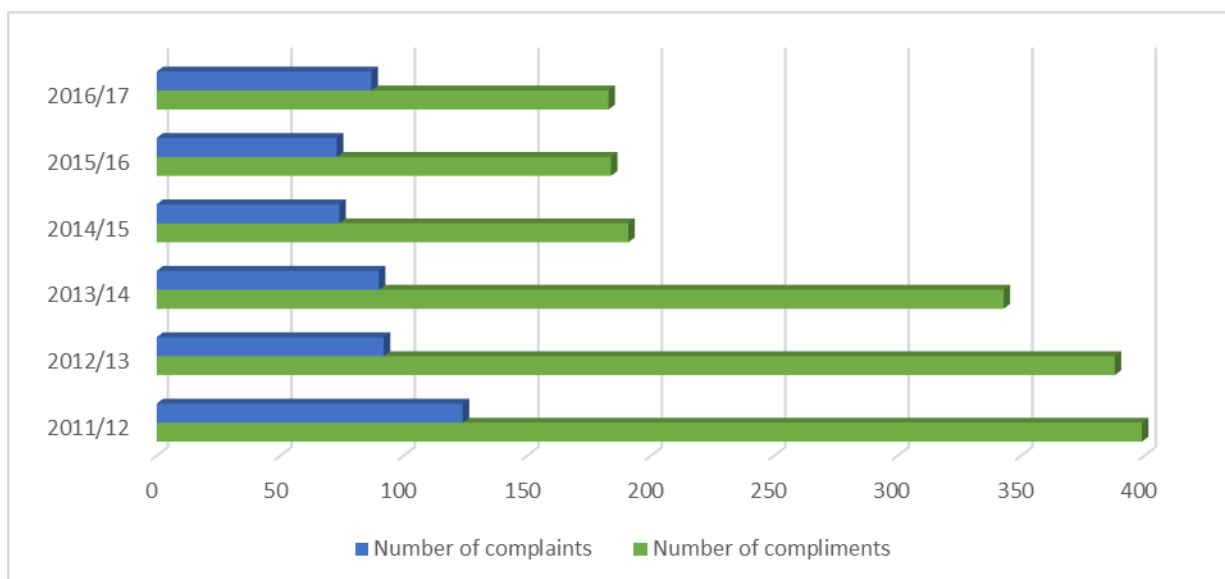
Compliments highlight that service users have appreciated the following:

- 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 ratio of compliments to complaints received across AHS is 2.1:1. This means that for every complaint received, there were more than 2 compliments. This represents a decrease on the previous year when the ratio of compliments to complaints was 2.5:1.

The number of compliments received consistently outweighs the percentage of complaints received and this is shown in the graph below:

The ratio of compliments to complaints 2011 – 2017



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 2016/17 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.
- Further development of the escalation process with the progress of complaints investigations actively monitored, closer liaison with Strategic Managers to ensure momentum in complaints investigations and more effective feedback to complainants in order to update them and manage their expectations.
- The Complaints Officer to attend social care manager's sessions to deliver key messages and updates on complaint processes, developments and learning.
- Review of the 'Joint Protocol for Adult Health and Social Care Organisations - Guidance for handling complaints involving more than one organisation' with County Durham and Darlington (NHS) Foundation Trust.

Reporting

Complaints information is reported on a quarterly basis to senior management teams, for cascading to managers and staff. The information in this report is therefore a year-end summary of information, which has previously been shared.

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 change is being implemented in 2017/18 to the complaints governance arrangements. There will be one dedicated Complaints Officer managing AHS complaints, with the role of 'Complaints Manager' being undertaken by the AHS Development and Learning Manager, reporting to AHS Operational Support Manager, who in turn will report directly to the Head of Commissioning.

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
CAS	Children's and Adult Services
CDCS	County Durham Care and Support
CRP	Complaints Resolution Plan
CYPS	Children's and Young People's Services
DCC	Durham County Council
IMCA	Independent Mental Capacity Advocate
LGO	Local Government Ombudsman
NRCMG	Northern Regional Complaints Managers Group
PHSO	Parliamentary and Health Service Ombudsman

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