

# **LONDON BOROUGH OF RICHMOND UPON THAMES**

## **HEALTH, HOUSING AND ADULT OVERVIEW AND SCRUTINY COMMITTEE**

**DATE:** 11 November 2010

**REPORT OF:** Corporate Complaints Manager (Designated Complaints Manager)

**SUBJECT:** 2009/10 ANNUAL REPORT ON COMPLAINTS IN ADULT SOCIAL CARE

**WARDS:** All

### **SUMMARY**

1. This report presents to members a summary of Adult Social Care complaints that were concluded during the 2009-2010 financial year. The data is presented to allow comparisons with previous years and also provides a breakdown of complaints by subject and outcomes. The complaint process is also briefly described

### **PURPOSE OF REPORT GOING TO SCRUTINY COMMITTEE**

2. All councils in England and Wales are required to provide a complaints procedure for people who receive a service from Adult Social Care. This procedure has to follow the requirements of the Health and Social Care (Community Health and Standards) Act 2003(a). The regulations governing the complaint process are the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. Complaints made regarding Housing Services are not covered by this legislation. These are dealt with via the Corporate Complaints Procedure and are reported separately. The complaints process, introduced on 1 April 2009, covers all Health and Adult Social Care complaints. In order to meet the statutory requirements of these Acts, the Council is obliged to produce an annual report for Adult Social Care complaints. This report is designed to meet this requirement for Adult Social Care and is a public document.

### **RECOMMENDATION**

3. That the Committee note this report.

## DETAILS

4. In the White Paper '*Our Health, Our Care, Our Say*' (30 January 2006), the Government set out its commitment to develop a comprehensive, joint complaints system across Adult Social Care and Health. The detailed proposals in '*Making Experiences Count*' (6 February 2008), were then finalised in the legislation and guidance '*Listening, Responding, Improving*' (26 February 2009).
5. The new legislation requires Local Authorities to designate a Complaints Manager. It is the Complaint Manager's responsibility to manage the procedures for handling and considering complaints under the Regulations. In Richmond, this role is incorporated into the post of Corporate Complaints Manager.
6. The combined, single stage procedure in both Health and Social Care complaints, with the right to go to the Ombudsman if not satisfied, is explained in the Department of Health guidance '*Listening, Responding, Improving*'. This process requires far greater involvement with the complainant. Each complaint is risk assessed and a 'complaint plan' drawn up which describes how the complaint will be dealt with. Unlike the old 3 stage procedure, there are no set timescales laid down. The time required to respond to the complaint and the methods to be used, are discussed with the complainant at the beginning of the process and while this may vary according to the complexity of the issues raised, Richmond is working to a timescale for response of 25 working days. This timescale has been adopted by several other London Boroughs as well as NHS Richmond and the local NHS Trusts.
7. At the conclusion of this process, a complainant who remains dissatisfied can approach the Local Government Ombudsman (LGO). The LGO is empowered to investigate where it feels that an injustice may have occurred or there is evidence of maladministration.

### Complaints in 2009-2010

8. In order to organise the data, we count complaints in the year in which they were closed. This includes complaints initiated in 2008/09, but closed in 2009/10. During the period 1 April 2009 – 31 March 2010, 83 stage 1 complaints were completed, 38 in Adult Services and 45 in South West London, St. Georges Mental Health Trust. The total of 83 is a decrease of 27 (24.5%) on last year's totals.
9. In addition to representations from service users that were received under the complaints procedure, there were also 23 enquiries from MPs and Councillors in 2009–2010 regarding Adult Services. Although dealt with under a separate process, many of these enquiries could be regarded as 'complaints'.

10. Where there is any indication that the service user may be at risk of any sort of abuse, the matter is escalated using the safeguarding procedure. At this point, any concern or complaint currently being investigated is postponed until the result of the safeguarding process is known.
11. Table One below shows the total complaints for all stages closed in 2009-2010. Table Two compares the total stage one complaints received over the previous 3 years. The figures for complaints regarding Mental Health Services provided by South West London and St. Georges Mental Health Trust are also included here for information.

**Table One: Total Number of Complaints closed - All Stages 2009-2010**

N.B. There are no stage 2 and 3 under the complaint process introduced on 1 April 2009 but some complaints, started before that date, were closed after April 2009

	<b>Stage 1</b>	<b>Stage 2</b>	<b>Stage 3</b>
Adults Division	38	5 (started in previous year)	0
SWL & St George's MH Trust	45	0	0
<b>Total Complaints</b>	<b>83</b>	<b>5</b>	<b>0</b>

**Table Two: Total Number of Stage One Complaints closed – yearly comparison**

	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>	<b>2009/10</b>
Adults Division	30	45	51	38
SWL & St George's MH Trust	27	31	59	45
<b>Total</b>	<b>78</b>	<b>102</b>	<b>110</b>	<b>83</b>

The decrease in Adult complaints in 2009/10 is a result of a large decrease in the number of Finance complaints from 12 to 5. This felt to be due to greater checking of officers work by managers and changes to letter templates.

Timescales

12. From April 2009, no new complaints were eligible to proceed to stage 2 or 3, however, there were 5 stage 2s 'in the pipeline'. At this second

stage, the timescale in which to respond was 25 working days from receipt of the request, which could be extended to 65 working days with agreement. Under the new single stage process, each complaint has to be approached individually but for ease of comparison the Council is working to a timescale of 25 working days to respond to complaints

Time taken to close complaints

13. It will not be possible to make direct comparisons with previous years as the complaint procedure has changed radically. The greater involvement of the complainant in the process, the requirement for negotiation and the additional letter needed to close the complaint where there is no agreement, will all contribute to an increase in the time to close a complaint. Nevertheless, a comparison with previous years showing the average number of days taken to close a complaint is included below. A new table will be started this year using 25 working days as the timeframe in which to answer complaints.

**Table Three: Old Process Timescale Analysis: Yearly Comparison: Percentage of Stage One Complaints Closed within timescales**

	<b>2006/07</b>	<b>2007/08</b>	<b>2008/09</b>
Within 10 days	10.0%	34.0%	19.6%
Between 10 & 20 days	36.6%	42.0%	43.1%
Between 20 & 40 days	23.4%	16.0%	29.4%
Over 40 days	30.0%	4.0%	7.9%

**Table Four: New Process Timescale Analysis: Percentage of Complaints Closed within timescales**

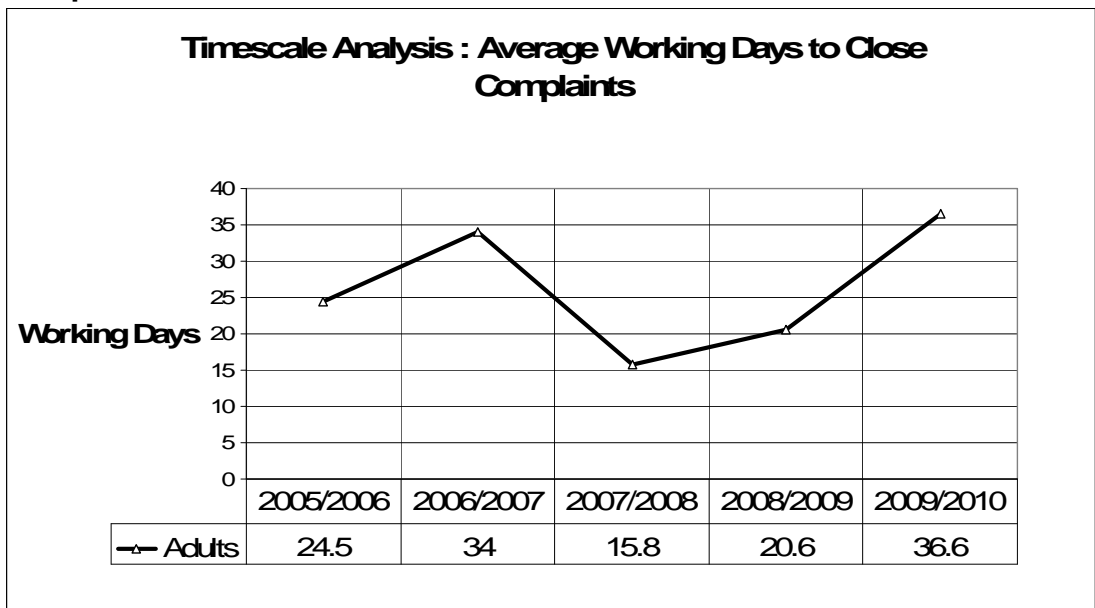
	<b>2009/10</b>
Within 25 days	56.8%
Between 26 & 50 days	18.9%
Over 50 days	24.3

14. At the introduction of the new process in April 2009, it was unclear what affect the greater emphasis on negotiating and mediating with complainants would have. In some instances, this increased contact allowed the parties to reach an understanding of the issues and possible resolutions quickly. In other cases, for example where there was no immediate agreement or where an advocate was involved, might mean there were long periods of negotiation, during which time the complaint could not be closed. This 'open ended' approach has been modified so that complainants are now asked to respond to 'interim responses' within two weeks, stating their dissatisfaction, or the complaint is closed.
15. Some complaints will inevitably take time to resolve due to the nature of the issue involved. One example would be where a complainant

wasn't in agreement with the Council's surveyor and a building contractor about the amount of damage that had resulted from a leaking pipe. In this instance, a series of visits and negotiation had to take place to come to an agreed compromise. Another example would be where some information, required to answer the complaint, was not forthcoming from a third party.

16. Chart One below shows comparisons over the last five years. Direct comparisons are problematic for the reason set out above.

**Chart One: Timescale Analysis: Average Working Days to Close Complaints**



Stage Two

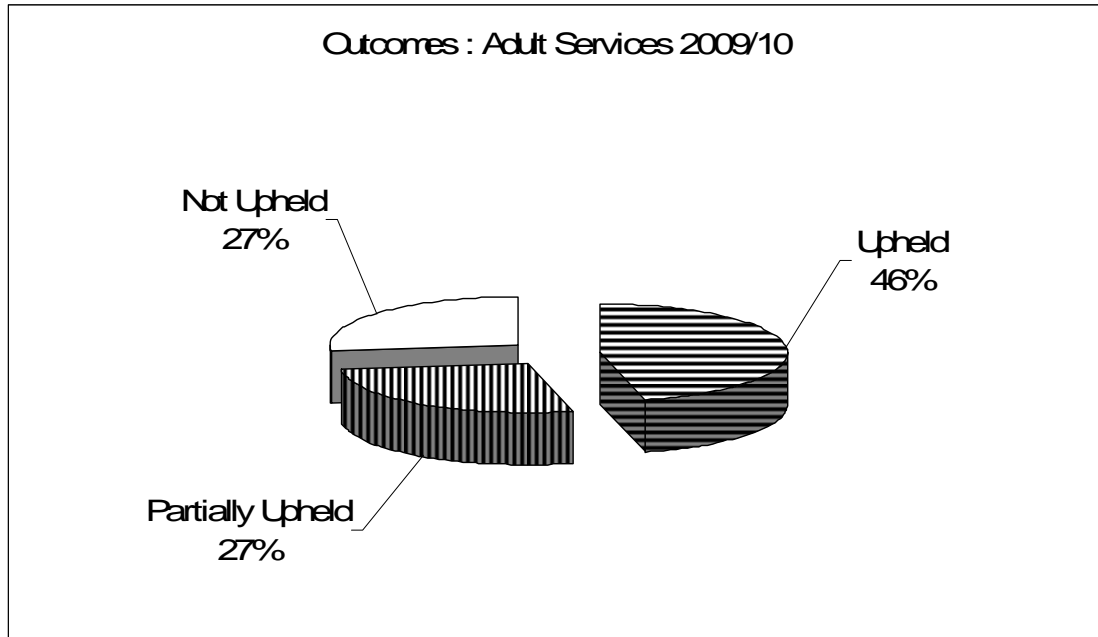
17. 5 stage two complaint investigations were completed in 2009/10. The timescale allowed to complete this stage alone was 25 working days (65 days with agreement) from receipt of the Statement of Complaint. 3 of the investigations were completed within the time allowed; two took considerably longer than 65 days to complete. In one of these investigations, a large part of the delay was due to the Investigator becoming ill during the process. The complainants and their advocate were offered another person as an alternative but wished to keep the original person. The other stage 2 was extremely complex and involved a number of different agencies and another Local Authority. The investigation was severely delayed as several issues were taken through the safeguarding procedures.
18. Under the new procedure, there will no longer be stage 2 complaints. However, if the complainant is not satisfied with the Local Authority's first response (called the 'interim' response) then there is a duty placed on the Local Authority to continue to investigate unresolved issues to see if a resolution can be reached. If no agreement can be reached, a

final closing letter is sent from the Assistant Director – Commissioning Care Services providing the contact details for the Local Government Ombudsman.

## Outcomes 2009/10

### 19. Stage One

**Charts Two: Outcomes - All Complaints (Upheld, Partially Upheld, and Not Upheld).**



20. Table Five below show the number of complaints by Service area, and the split between the complaints that were Upheld, Partially Upheld and Not Upheld.

**Table Five: Analysis of Upheld and Partially Upheld Complaints Stage One - Adult Social Care**

Adult Care Services	Total number	Upheld complaints	Partially upheld	Complaints not upheld
Care Management	23	11	6	6
Finance	7	4	1	2
Home care	5	2	2	1
Mental Health	2	0	1	1
Self directed support	1	0	1	0
Equipment	1	0	1	0
Learning disabilities	7	3	3	1
Respite	2	1	1	0
<b>TOTAL</b>	<b>48</b>	<b>22</b>	<b>15</b>	<b>11</b>

21. Some complaints involve more than one service and therefore the total number shown in the table above will not equal the number of individual complaint totals. 77.1 % of complaints were upheld or partially held. This compares with 74.5% upheld or partially upheld in 2008/09

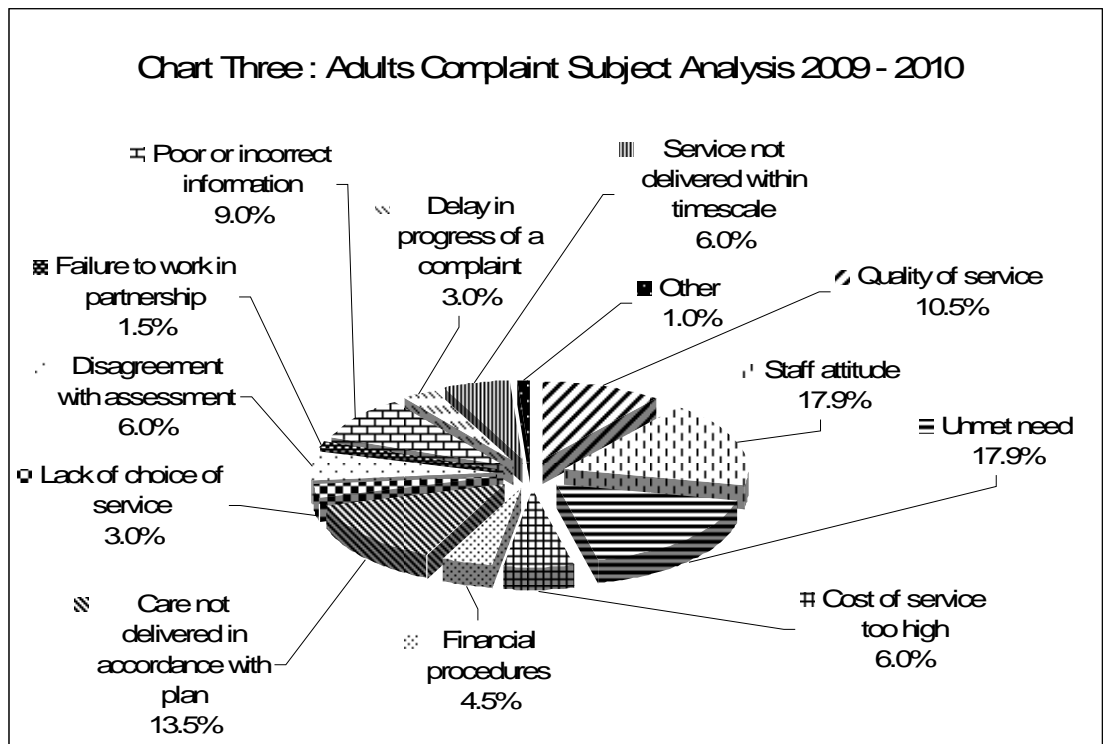
**Old procedure Stage Two and Three**

22. Of the 5 **Stage Two** complaints closed in 2009/10, 2 were not upheld and 3 were partially upheld. None of these final stage 2s progressed to stage 3.

**Nature of Complaints 2009/10**

23. The charts below provide analysis of the types of complaints received.

**Charts Three: Nature of Complaints: Analysis of all complaints, Upheld, Partially Upheld and Not Upheld.**



**Learning from Complaints**

24. The identification of learning from complaints has continued to improve so that the vast majority of upheld and partially upheld complaints will provide positive information to improve services. The information

gathered about gaps in services or areas for improvement are now shared with the public on the Council's website.

The learning and action taken from complaints are set out in Appendix A.

## **FINANCIAL IMPLICATIONS**

25. The use of external Investigating Officers to work on stage two complaints has inevitably incurred cost to the authority. The benefits have been that it frees managers to undertake operational work and it reassures service users that their complaints are being independently scrutinised. The total amount in 2009-2010 for Adult Social Care complaints related expenditure is:

<b>Adult Social Care</b>	<b>2008/2009</b>	<b>2009/10</b>
Stage 2 costs	£9,516.86 (4)	£5,292.75 (4)

26. One of the 5 stage 2 complaints closed in 2009/2010 one was paid for in the previous year so only the cost of 4 are shown in the table above.
27. Under the new procedure, the costs are likely to be minimal or non-existent, as Investigating Officers will only be used in very complex or contentious cases.

## **POLICY IMPLICATIONS/CONSIDERATIONS**

28. None

## **LEGAL IMPLICATIONS**

29. None

## **EQUALITY IMPACT/CONSIDERATIONS**

30. Equalities monitoring is an essential part of the complaints process. We seek to record ethnicity, disability, gender, the age and sexuality of service users, using the Government's census categories. The data is collected to ensure we treat all members of our community fairly and that our complaints procedure is accessible to all. In the past, we have drawn on the expertise of Investigating Officers and Independent Persons from as diverse a range of people as possible.
31. The percentages below are measured against those complainants who disclosed their personal data.
32. In 2009/10, 6% of complainants were from minority ethnic groups. This is slightly lower than the overall total figure of 8.5% BME service users.

It should also be noted that the majority of complaints were made by people over 65. The % of BME service users over 65 is 4.56%. No complaints about Adult Social Care were made in the last year by people from Black or Asian backgrounds.

33. In 2009/10 the Corporate Complaint Team carried out an Equalities Impact Needs Assessment and are currently working to an action plan to make sure the complaints process is accessible to anyone who wishes to make a complaint. Actions include
- customer satisfaction forms are being sent out 6 weeks after a complaint is closed in an attempt to identify how we can improve the complaint process,
  - complaint leaflets and information are available at all public access points, including GP surgeries, and updates have been made to web pages and electronic means to make complaints,
  - a complaints officer attended the recent Older Peoples event to provide advice and further similar public meetings will be attended.

<b>Gender:</b>		<b>Ethnicity:</b>	
Male	21%	White British	94%
Female	76%	Any Other	White 6%
		Background	
Couple	3%		
<b>Age:</b>		<b>Disability:</b>	
16-32	14%	Yes	50%
33-65	16%	No	50%
Over 65	70%		

## ENVIRONMENTAL STATEMENT

34. No environmental impacts

## BACKGROUND PAPERS

35. None

## CONTACTS

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Appendix A

**Learning from Complaints**

Reason for complaint	Learning	Action
<p><u>Debt Recovery</u></p> <ul style="list-style-type: none"> <li>▫ Harassing approach to debt recovery and poor customer care.</li> </ul>	<p>Telephone contact with debtors needs to be proportionate and appropriate</p> <p>Letters should never become personal or digress from the purpose of providing information and requesting payment.</p> <p>Customer care to be improved.</p>	<p>In future, no more than one successful or five unsuccessful calls to made to one debtor in one day.</p> <p>Standard paragraph to be drafted for inclusion in debt recovery letters which describes the Council's financial position. Standard debt recovery letters to be revised and approved by the Readers Group.</p> <p>Staff reminded of customer care principles and the need to maintain the Council's reputation in the community.</p>
<p><u>Transition between Children's and Adult services</u> Complaint that there was a significant drop in quality of services offered</p>	<p>The transition process for children and their carers is more difficult and stressful because of unclear policies and poor communication.</p>	<p>Learning disabilities team will work with Children's Services, Connexions and Specialist schools to improve the transition process. They will clarify the role of the transition worker and ensure web information and leaflets are adequate and made accessible.</p>
<p><u>Poor support to PLD service user</u> Several complaints made by service user and family about the transport and support arrangements</p>	<p>Taxi service for PLD service user needs improving to be more reliable.</p> <p>Schedules were not always completed in time.</p> <p>Support needs to be consistent (not from family)</p>	<p>Team leaders will start compiling schedules earlier so Friday deadline can be met.</p> <p>All support staff will be expected to work weekends on a rota basis.</p> <p>Self Directed Support process now completed and service user now supported by paid family member.</p>
<p><u>Communication and information</u></p> <ul style="list-style-type: none"> <li>▫ Incorrect information given and poor</li> </ul>	<p>Better liaison between Care management and Brokerage Teams. Poor information provided by frontline</p>	<p>Teams to check any notes from other teams before speaking to service users. Script to be prepared by finance team for Richmond Direct.</p>

## Learning from Complaints

Reason for complaint	Learning	Action
communication.	staff.	Case notes must be updated to reflect all phone calls.
<u>Communication</u> PLD service user not informed of change of plans in the appropriate way for them.	The method of communication should be tailored to the needs of the person receiving the information.	Care managers will consider best method of communicating information to vulnerable people. In some instances this will best be done by visit rather than over the phone
<u>Process/Understanding of process</u> Complainant not informed of scheme	'Lease back' scheme between Care Uk and the Council, not understood by service users or staff.	The officer responsible for the procedure has rewritten guidance notes on process. These have now been reissued to all care staff.
<u>Process</u> 2 complaints regarding administration of appointeeships 1) Confusion as to who should be paying rent. Account had been frozen 2) Service user was being charged when they had been assessed as continuing care	Investigation highlighted the need for a review of the appointeeship process.	Report produced which recommended a single team should process and monitor appointeeship applications and accounts.
<u>Process</u> Difficulty in arranging respite	Not enough notice is given to those waiting for respite.	Adult Social Care Board to take up issue. We need to confirm provision even if we can't be clear about where the placement will be until nearer the time.
<u>Communication</u> Not invited to meeting with elderly relative. Service user thought incorrectly that she would have to move.	Service users can misunderstand information if not clarified by those who know them well.	The importance of involving carers will be reiterated to staff and form part of 1 to 1 meetings and supervision.
<u>Communication</u> Case not able to be considered at panel as chair unaware that carer advocating for mother.	Full information must be supplied to carers and presented at panel by care manager	Care managers to be present at panel where case is complex or unclear.
<u>Communication</u> Not informed that they would be charged for care.	All those about to receive care should be informed of cost.	Written information must be provided by Care Management regarding the amount to be paid at the start of care.