

**Hartlepool Borough Council
Child and Adult Services**

**Complaints Procedure for
Adult Social Care – January 2011**

‘Making Experiences Count’

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Hartlepool Borough Council
Child and Adult Services

Complaints Procedure for
Adult Social Care

‘Making Experiences Count’

1. Introduction

This document details the way in which representations made about Hartlepool Borough Council’s Adult Social Care services will be addressed under The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and in a manner that upholds the principles of good complaint handling as set out by the Local Government Ombudsman.

The services to which this procedure applies are adult social care to:

- older persons
- people with a physical disability or sensory impairment
- people with a learning disability
- people with mental health needs
- carers

2. Principles

This procedure is about putting the person who uses services, carers and/or their representative at the centre of efforts to resolve the issues they have raised. We recognise the importance of listening to experiences and views about our services – particularly if people are unhappy with an aspect of service delivery – and we want to make it as easy as possible for them to let us know their views. The procedure will ensure that representations are dealt with in a way that is:

- **open** – information gathered about the issues raised and the way in which they have been handled will be shared in full.
- **clear** – the representation and the way in which it will be handled will be agreed at the start with the complainant
- **responsive** – the needs of the complainant and/or person using services/carer will be taken into account in determining the method of addressing their complaint
- **flexible** – the complaint/representation handling will be determined by the nature of the complaint and views of the complainant
- **proportionate** – the efforts to resolve and time taken in addressing the issues raised will reflect the significance of those issues.
- **accessible** – the procedure will be easy to get access to and to use
- **timely** – complaint handling will be conducted in a timely way – rather than subject to preset timescales.

- **resolution focussed** – at all points through the process we will look to resolution.

Complaints will be dealt with in a way that is most suitable to the issues raised rather than according to a set procedure. The means of addressing the complaint will take into account:

- the complainant's views
- the nature of the complaint
- the potential implications for the complainant
- the potential implications for the organisation

We want everyone who is involved to feel confident in the process and will achieve this through a procedure that ensures:

- complaints are taken seriously
- complaints are dealt with promptly and effectively
- there is a full response and a clear outcome for the complainant
- complaints are dealt with fairly and even-handedly
- all those involved in the process are treated with dignity and respect
- there is equality of access and standard of service for all complainants, with particular consideration for those people who may find it more difficult to use the process e.g. people with disabilities, those whose first language is not English
- services learn from complaints and improve as a result.

3. What is a complaint?

A complaint is any expression of dissatisfaction about a service that is being delivered, or the failure to deliver a service. The Local Government Ombudsman defines a complaint as “an expression of dissatisfaction about a council service (whether that service is provided directly by the Council or by a contractor or partner on its behalf) that requires a response.”

A complaint can be made in person, in writing, by telephone or email or through the Council's website. It can be made at any office. Every effort should be made to assist people in making their complaint and any member of staff can take a complaint.

3.1 Who can complain?

A complaint can be made by:

- a person who uses services
- a carer
- someone who has been refused a service for which they think they are eligible
- the representative of someone who uses services or a carer – can be anyone acting on their behalf with their consent

- the representative of someone who uses services who has not got capacity, as long as they are seen to be acting in the interests of that person
- anyone who is or is likely to be affected by the actions, decisions or omissions of the service that is subject to a complaint.

Any decision that a complainant is not a qualifying complainant will be made by the Complaints Manager in consultation with the appropriate Head of Adult Service and the complainant informed of the outcome in writing.

3.2 What can be complained about?

A complaint can be made about anything that is connected with the Local Authority exercising its adult social services function. This could be:

- Quality or amount of service provision
- Failure to follow correct procedure
- Delay
- A service not being provided
- Application of assessment and eligibility criteria
- Attitude or behaviour of staff
- The impact for an individual of the application of a Local Authority policy

A complaint that relates to adult social care but does not relate specifically to the provisions of adult social care as stated within the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 will be dealt with by the Corporate Complaints Procedure.

Matters that should be dealt with through other procedures will not be dealt with as a complaint eg

- Disciplinary proceedings
- Grievance proceedings
- Criminal investigations
- An appeals process
- The complainant intends to take legal proceedings in relation to the substance of the complaint
- Allegations relating to safeguarding adults (**Refer to Appendix 1**).

However, if some aspects of a complaint are being addressed through other processes it does not mean that the entirety of the complaint should not be progressed. Issues that can be considered under the complaints procedure, as long as they do not compromise any other process, can still be addressed this way. It is possible for two or more procedures to run side by side.

If at any point in dealing with a complaint it becomes apparent that there are issues that should be addressed through other procedures that part of the complaint will be suspended and moved to another procedure as appropriate and the complainant informed.

3.3 Direct Payments/Personal Budgets

Some issues can be dealt with under this procedure that relate to the Local Authority's role in direct payments or personal budgets, for example in assessing for the amount of service or in the advice and assistance given in setting up such payments.

However, people who use services, carers or their representatives cannot raise issues under this procedure about services that they arrange and pay for themselves through a direct payment or personal budget. If the Local Authority is not purchasing the care, it is not appropriate to expect them to investigate a complaint about a service that they are not accountable for. Those people who use their direct payment to purchase support from a personal assistant are in the position of being an employer of an individual and as such the arrangement would be subject to employment legislation and mechanisms for dispute resolution.

With effect from 1st October 2010, the Local Government Ombudsman can consider complaints from people who arrange their own adult social care. This will include those who 'self fund' from their own resources or have a personal budget. Complaints in the first instance should be made to the care provider but in circumstances where the complainant remains dissatisfied, they can refer to the Local Government Ombudsman.

3.4 Commissioned Services

Adult Social Care is increasingly working with the independent sector in commissioning services for people and their carers. When people have complaints about these services we believe that they should have the same rights and should expect the same standards when getting those complaints addressed as would apply with in-house services. Therefore, although all commissioned services are required to have their own complaints procedure in place, if preferred people who use services, carers or their representatives can choose to have their complaints addressed through this procedure.

3.5 Single integrated complaints process

This complaints procedure reflects the requirements and principles of 'Making Experiences Count' a procedure which is designed to ensure that there is a single complaints process across all NHS bodies and adult social care organisations. This will provide a unified approach to complaints about integrated services and where complaints are made across organisations. The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 places a duty on NHS bodies and adult social care organisations to co-ordinate handling of such complaints and to advise and support complainants through the procedure. The Complaints Officer will be the initial link contact person in all complaints that span both adult social care and NHS bodies.

In addition, where complaints made to the Child and Adult Services Department span other departments of the Local Authority and/or the

Corporate Complaints Policy and/or Children's Services Complaints Policy, the Complaints Officer will be the initial link contact person.

4. Process

4.1 Complaint Screening

The Complaints Flowchart is attached as **Appendix 2**.

Complaint screening allows us to begin to look at the significance, or potential significance, of the complaint for the complainant and for the organisation and so indicates the way in which we should deal with the complaint. To screen the complaint the attached assessment/tool (**Appendix 3**) must be used.

Factors to take into account when screening a complaint are:

- The likelihood of re-occurrence
- The degree of risk for the person using services or carer
- The degree of risk for the organisation
- The complainant's views.

The complaint screening tool gives us three alternative ways of dealing with the complaint, starting at low impact level (green), to moderate (amber) and potentially high impact level (red) – those with the greatest significance for people who use services and/or carers and the service. These impact levels are dealt with progressively in ways that are increasingly formal and an independent investigation may be considered.

Upon receipt of a complaint, the relevant Head of Service together with the Complaints Officer should assess the complaint to determine the level of impact. For complaints spanning more than one service, all relevant Heads of Service will be consulted.

4.2 Green complaints (low impact)

These complaints will be dealt with by the Team Manager/Principal Practitioner for the service area responsible.

- The complaint will be acknowledged within **three** working days from receipt by the Complaints Officer. If known at that time, this acknowledgement will also include the name of the person appointed to investigate their complaint. Any issues relating to obtaining consent from the person who uses services will be covered at this point.
- The Team Manager/Principal Practitioner appointed to the complaint will confirm, with the complainant, their complaint, desired outcomes and agree a timescale for response. This is known as the Complaint Plan (suggested outline in **Appendix 4**). The complaint plan should be signed by the complainant and Team Manager/Principal Practitioner. This should be completed within **ten** working days of receipt of complaint and copied to the Complaints Officer.

- The Team Manager/Principal Practitioner will gather the necessary information and reach a conclusion on the complaint by:
 - Meeting with the complainant to seek their views
 - Meeting with the person who uses services or carer (if the person who uses services or carer is not making the complaint) to seek their views (dependent upon any medical or other material evidence as to an individual's capacity and/or competency)
 - Interviewing relevant staff, contracted provider etc
 - Consulting case files, computer records, policies and procedures, any other records/documents as necessary
 - Obtaining any specialist advice/information as necessary

Note: If a complaint is not made by the person who uses services directly, then they should be seen by the person appointed to investigate the complaint. If they are not seen, then an explanation for not doing so should be included in the report.

- The Team Manager/Principal Practitioner will:
 - Write a response to the complaint outlining the actions they have taken to investigate the complaint and conclusion reached including whether the complaint is upheld, not upheld, partly upheld or cannot be substantiated (an example is available as **Appendix 5b**)
 - The response should be shared with the Head of Service before dispatch.
 - Identify any areas for action/service improvement. These should be included in the response to the complainant.
 - The response should also include the complainant's right to progress the complaint if they remain dissatisfied.

Although the timescale should be agreed with the complainant, it is envisaged these complaints will be concluded between **ten and twenty working days** of the complaint plan being agreed.

A copy of the response to the complainant should be forwarded to the Complaints Officer. Any material used by the Team Manager/Principal Practitioner as part of the investigation into a complaint should be retained by them for a minimum of 2 years.

4.3 Amber complaints (moderate impact)

- Once it is identified that the complaint screening indicates a complaint of moderate potential impact, the complaint will be acknowledged within **three** working days from receipt by the Complaints Officer. If known at that time, this acknowledgement will also include the name of the person appointed by the Head of Service to investigate their complaint. Any issues relating to obtaining consent from the person who uses services will be covered at this point. These complaints will be investigated by a Responsible Officer who may be independent of the Local Authority.

- The Responsible Officer appointed to the complaint will confirm, with the complainant, their complaint, desired outcomes and agree a timescale for response. This is known as the Complaint Plan (suggested outline in **Appendix 4**). The Complaint Plan should be signed by the complainant and Responsible Officer. This should be completed within 10 working days of receipt of complaint and copied to the Complaints Officer.

The steps taken to look into the complaint will be as 4.2 (green complaints) but in addition at the conclusion of the investigation, the findings and any recommendations will be reported back to the Head of Service and the decision made about:

- whether the organisation accepts the findings of the investigation
- what action is required, by when and by whom
- any learning for service improvements
- The response to the complaint will be sent out in the form of a report (an example is attached as **Appendix 5a**) that addresses the substance of the complaint and a covering letter (**Appendix 6**) from the Head of Service outlining whether the organisation accepts the findings, what action will be taken as a result and the complainant's right to progress the complaint if they remain dissatisfied.
- Although the timescale should be agreed with the complainant, these complaints should be concluded within **forty working days** of the complaint plan being agreed.

Any correspondence to the complainant including copies of the report and response to the complainant should be provided to the Complaints Officer. Any material used by the Responsible Officer as part of the investigation into a complaint should be retained by them for a minimum of two years.

4.4 Red complaints (high impact)

- Once it is identified that the complaint screening indicates a complaint of high potential impact, the complaint will be acknowledged within **three** working days from receipt by the Complaints Officer. If known at that time, this acknowledgement will also include the name of the person appointed by the Head of Service to investigate their complaint. Any issues relating to obtaining consent from the person who uses services will be covered at this point. These complaints will be investigated by a Responsible Officer who will be independent of the Local Authority.
- The Responsible Officer appointed to the complaint will confirm, with the complainant, their complaint, desired outcomes and agree a timescale for response. This is known as the Complaint Plan (an example is attached as **Appendix 4**). The Complaint Plan should be signed by the complainant and Responsible Officer. This should be completed within 10 working days of receipt of complaint and copied to the Complaints Officer.

- The steps taken to look into the complaint will be as 4.2 (green complaints) but in addition at the conclusion of the investigation, the findings and any recommendations will be reported back to the Head of Service and Assistant Director and the decision made about:
 - whether the organisation accepts the findings of the investigation
 - what action is required by when and by whom
 - any learning for service improvements

The response to the complaint will be sent out in the form of a report (example attached as **Appendix 5a**) that addresses the substance of the complaint and a covering letter (**Appendix 6**) from the Head of Service outlining whether the organisation accepts the findings, what action will be taken as a result and the complainant's right to progress the complaint if they remain dissatisfied.

Although the timescale should be agreed with the complainant, these complaints should be concluded within **sixty five working days** of the complaint plan being agreed.

Copies of correspondence to the complainant and the report and response to the complainant should be provided to the Complaints Officer. Any material used by the Responsible Officer as part of the investigation into a complaint should be retained by them for a minimum of two years.

4.5 Complainant remains dissatisfied

If the complainant remains dissatisfied with the response to their complaint further consideration by the Complaint Manager in consultation with the Head of Service and/or Assistant Director will only be given for one or more of the following reasons:

- the issues raised highlight a new complaint not addressed in the original investigation
- new information comes to light that was not considered in the original investigation
- the interpretation of the facts set out in the response are not consistent with the evidence cited
- the complainant considers that the investigation into their complaint was adequate but the response to any recommendations made are inadequate to them.

If it is felt, after this consideration, that there are grounds to revisit some or all elements of the complaint then this will be agreed with the complainant. If it is decided that there are no grounds, then the complainant will be advised of the next stage of the process, which is referral to the Local Government Ombudsman. The Complaints Officer will provide the complainant with the necessary information to enable them to do this.

5. Persistent Complainants

From time to time, we will come across complainants who seek to raise a number of complaints or that become unreasonable in their conduct or expectations around contact. Whilst every effort should be made to address objectively any concerns that are raised we must also seek to be proportionate and not to expose our staff to unreasonable behaviour. In such instances, the attached corporate guidance should be followed (**Appendix 7**).

6. Learning

It is a vital part of the process that services learn from the representations that are made. The process that addresses complaints will identify any areas for improvement or learning and will make suggestions for the actions that will be taken. This will be addressed in the response. Where necessary, action plans will be drawn up and responsibilities assigned.

Those persons with assigned responsibilities will need to provide evidence for actions to the Complaints Officer upon request. A summary of the learning and service improvements which has taken place as a direct result of complaints will be reported in the Annual Complaints Report.

7. Advocacy

Advocacy services should be routinely offered to all complainants at the time that the complaints plan is completed. The type of advocacy support offered should be dependant on the needs of the complainant. The offer and decision by complainant should be clearly recorded on the complaints plan.

If advocacy is required, the Complaints Officer should be contacted for further information and advice.

Advocacy support can be requested by the complainant at any point during the process. If requested, contact the Complaints Officer.

Note: A complaint that spans adult social care and an NHS Body requires 2 separate advocates. This is because, at the current time, the Independent Complaints Advocacy Services (ICAS) are commissioned to provide advocacy services across NHS bodies. This is enshrined in primary legislation. Therefore, if a complainant wishes to engage the services of an advocate, an ICAS member will provide advocacy support in relation to the health elements of complaint and a separate advocate will be appointed (not from ICAS) to provide advocacy support for the adult social care elements of the complaint.

8. Recording

Responsible Officers should retain all papers relating to the investigation for a minimum of 2 years. Whilst ensuring accessibility, this information should remain confidential. All final documents relating to a case should be retained on the individual case file. The Complaints Officer will keep a separate file on

each complaint, containing all reports, letters and any other relevant papers. An electronic database of all complaints will be maintained.

A complainant may have worries about the complaint not being kept private or it is considered that information in the report might cause distress to a person who uses services, the detail of the complaint could be kept out of the case file and a record placed simply giving the date of the complaint, the person making it and the date it was resolved. Full details about the complaint will be kept on the Complaints Officer's complaint file.

9. Monitoring

The Complaints Officer will ensure that records are kept of each complaint received including; the type of complaint, outcome of each and whether timescales were met and where possible statistical information about complainants. All learning will be recorded and reported back to the service areas above. The Annual Complaints Report will include a full breakdown of this information along with a summary of learning and service improvement and a review of the operation of the complaints procedure.

10. Supervision

We recognise the importance of ensuring that staff who undertake complaints investigations are supported in this activity. Regular supervision will be delivered by the line manager of the person dealing with the complaint and will provide:

- An environment that encourages professional development
- A confidential way to reflect on the work being done, and the impact it may have on the member of staff and their ability to do the job.
- An opportunity to develop the key skills and knowledge needed to perform the role of complaints investigation effectively.

Line managers have a key role in working with staff during the investigation process. They should listen to concerns, support report writing and work to identify lessons learned and find reasonable, realistic actions that support their implementation.

Safeguarding Adults and Complaints Procedure Protocol

Safeguarding Adults

The Safeguarding Adults process addresses allegations of harm, or risk of harm, to vulnerable adults. This includes physical, sexual, financial and emotional abuse as well as acts of neglect and discrimination.

Complaints

The Complaints Procedure addresses eligible complaints about Adult Social Care. A complaint is any expression of dissatisfaction about a service being delivered or failure to deliver a service which requires a response.

This protocol is designed to ensure that:

- Safeguarding Adults referrals and complaints are dealt with appropriately;
- Links are made across the 2 separate processes to ensure that all issues of concern that are raised are properly and appropriately addressed.

Receiving a referral/complaint

- Referrals and complaints can be made across the organisation and in a number of ways. The person making the representation is not required to identify the most appropriate process to address their concerns but should be supported by the person receiving the representation to clarify the issues to enable a decision to be made at an early point.
- If the worker receiving the representation is clear about the most appropriate process then the matter should be forwarded to the Safeguarding Adults Unit or Complaints Officer accordingly. If not, the matter should be referred to either area for advice. The person making the representation should be informed of which route their representation will be handled and what they can expect from the process.
- If the representation is received direct by the Safeguarding Adults Unit or Complaints Officer, they should screen the issues and confirm the right process is being used.

Safeguarding Adults/Complaints process

- If it is not clear at the start which of the 2 processes should be used, the Complaints Officer can be invited to a strategy meeting to advise.
- A strategy meeting convened in relation to a Safeguarding Adults issue may decide, upon further information being obtained, that the issues are not safeguarding adults but complaints – at this stage the matters can be forwarded to be addressed under the Complaints Procedure. The Complaints Officer should be informed at an early stage in order to make the necessary arrangements.

- If a complaint investigation/enquiries raises issues of a safeguarding adults nature, the complaint process should be halted and advice sought from the Safeguarding Adults Unit.

Representations that concern Safeguarding and Complaint issues

- It is possible that any referral/complaint may contain a number of issues that are both complaints and Safeguarding Adults concerns. It is possible in such circumstances for both procedures to operate side by side. This should be arranged in consultation between the Safeguarding Adults Unit and Complaints Officer and a Complaint Plan will be devised with the person making the representation that will reflect each aspect of the issues raised and state which process is being used to address matters – this will contain anticipated timescales.
- Where possible, the person making the representation should receive a single response and this should be co-ordinated between the Safeguarding Adults Unit and Complaints Officer.

Complaints Flowchart

Complaint Assessment Framework

All complaints will be assessed on receipt to identify the level of complexity and seriousness they represent. Each complaint will then be categorised as either Green, Amber or Red to help determine the way in which the complaint will be addressed and the timescale for response. This method will allow for a consistency of approach to all complaints and enable an appropriate and proportionate response to be given.

The factors taken into account in determining the category of each complaint will be:

- The seriousness of the issues raised
- How likely the issues are to recur
- The risk to the person using services and Department

Green Complaints (Low Impact)

Target Response Time: 10-20 working days

These complaints will involve relatively minor issues that can be promptly and readily resolved or addressed through clarification/explanation. These complaints will have minor implications for the service user/complainant or the Department.

For example: clarification about part of a care plan, lack of information about who will undertake an assessment, missed/late call.

Amber Complaints (Moderate Impact)

Target Response Time: Within 40 working days

These complaints will be about more complex and/or significant issues that require more detailed investigations into the background and circumstances of the complaint and a level of independence before they can be resolved. They may involve issues that have implications for the person using services/complainant or the Department in terms of practice, procedure or service delivery.

For example: Delay in completing an assessment, disagreement with aspects of a care plan, complaint involving more than one organisation.

Red Complaints (High)

Target Response Time: Within 65 working days

These complaints will be the most serious and complex that require a level of independence in their consideration and the most rigorous of procedures to address them. These complaints will have significant implications for the person using services/complainant or the Department in terms of practice, procedure or service delivery.

For example: Significant issues with quality and standards of care, excessive delay in completing assessment so that services are not in place when needed, complaint involving more than one organisation.

Initial Complaint Screening Decision Tool

Name of complainant: _____

Name of service user: _____

Date: _____

Consequence	Occurrence		
	Frequent	Occasional	Uncommon
Serious	HIGH		
Moderate		MEDIUM	
Minor			LOW

Issues: (raised by the complaint)

1. _____

2. _____

Impact: (of complaint on complainant/service user/organisation)

1. _____

2. _____

Grading – High/Medium/Low

Consequence – Serious/Moderate/Minor

Occurrence – Frequent/Occasional/Uncommon

Comments: (eg Independent Responsible Officer, Independent Person to be appointed etc)

Decision made by: _____

Date: _____

Complaint Plan

Complainant				
Name				
Address				
Telephone (Home/Work)				
Mobile				
Email				
Advocate				
Advocate Required	Yes	No		
If advocate known, Insert name and contact details				
Are there any other considerations or support arrangements required?				
	Eg large print, interpreter required			
Consent				
Is written consent from SU required?	Yes	No	Verbal consent? Form and pre-paid envelope provided for return.	Yes/No
Is written consent to share with another organisation required?	Yes	No	Verbal consent? Form and pre-paid envelope provided for return.	Yes/No

Complaint	
Element 1	
Element 2	
Element 3	
Desired Outcomes	
What does the complaint wish to happen as a result of making the complaint?	

Timescale	
Discuss with complainant an anticipated timescale of when a response will be issued	
Any other information relevant to the complaint	

Complaint Investigating Officer

.....
 (Insert name)

Contact Details

.....

Signed Dated

Signed Dated
 (Complainant)

GUIDANCE FOR INVESTIGATING 'AMBER' AND 'RED' COMPLAINTS

Purpose of the investigation

The purpose of the investigation is to gather the relevant and essential information in order to reach well founded conclusions on the complaint.

You should:

- Make sure you understand what the complaint is and the outcome the complainant is looking for.
- Approach the investigation entirely objectively.
- Make sure that the investigation is sufficiently thorough and you get all the information you need.
- Make sure that you take an even-handed approach to all parties involved in the complaint.
- Take account of the needs and circumstances of the people you may have to interview during the investigation.
- Not jump to conclusions before all the information is gathered.
- Meet timescales agreed with the complainant.
- Work closely with the Complaints Officer; Head of Service and/or Assistant Director; and others (eg Advocate) throughout the investigation and report writing.
- Keep the complainant informed. Provide written updates.
- Maintain the highest standards of confidentiality.
- Be aware of the requirements of Data Protection Act.

Process of the investigation

1. Make arrangements to meet the complainant to complete the complaint plan.
2. Meet with the complainant and draw up the complaint plan. Make sure that you completely understand the detail of the complaint, all elements of the complaint are included and their desired outcome is clear. At this meeting you should:
 - Introduce yourself and explain your role. Allow the Independent Person (if there is one) to introduce themselves and explain their role.
 - Clearly agree the complaint and all the individual parts to it.
 - Allow the complainant to express how they feel.

- Ask the complainant if there is anyone that they consider has information relevant to the investigation.
- Establish what outcome the complainant is looking for.
- Check whether the complainant requires any support or representation.
- Explain what the process of the investigation will be.
- Consider whether the complaint can be resolved without further investigation or whether alternative resolution (eg mediation) is a more appropriate way of dealing with the complaint.
- Give an estimate of when the complainant should expect a response and agree how and when updates will be given.
- Be clear with the complainant about what possible outcomes may be so that they do not have unrealistic expectations that the investigation cannot meet.

This meeting with the complainant is probably the most important part of the process as it will determine the course of the investigation. It is vital therefore that you are very clear, that your understanding of the complaint is the same as that of the complainant and that the complainant has confidence in the integrity of your investigation.

3. Send a copy of the Complaint Plan to the complainant requesting that they amend if necessary, sign, date and return a copy. You do not have to wait for this to be returned to commence your investigation. Upon receipt of the Complaint Plan, ensure a copy is sent to the Complaints Officer.
4. Obtain all the documentation you need, for example:
 - Consulting case file records
 - Copies of timesheets, log books, diary records (remember electronic records)
 - Relevant policies and procedure documents
5. At this point you may wish to review the list of people you intend to interview and make arrangements with those. Interviewees should be advised of what the complaint is (unless to do so would prejudice the investigation) and asked if they would like support in your meeting (usually this would be a colleague not involved in the complaint – it may be a union representative as long as this does not prolong the process). You should also remind interviewees that the files will be available to refer to when you meet.
6. Any professional advice (including legal) you need in relation to policies, practice or procedures should also be sought.
7. Once you have all the information you need you can compile your report.
8. Draft report shared with the Complaints Officer, Head of Service and/or Assistant Director and Independent Person (if appointed).
9. Relevant sections of the report shared with those interviewed to check for factual accuracy only.

10. Every effort should be made to conclude the investigation and report to the complainant within the agreed timescale. All extensions must be agreed with the complainant and Complaints Officer informed.

Interviewing

1. Before the interview takes place you should have a clear idea of the information you are seeking and preferably a list of questions you will ask.
2. If you expect that an interview is going to be particularly difficult or contentious and there is no Independent Person you should arrange with the Complaints Officer to have a witness.
3. Begin by explaining your role and make sure that the interviewee understands why you are seeing them and what it is that you are seeing them about.
4. Conduct the interviews in as informal and relaxed a way as possible
5. Ensure that you concentrate on fact and not opinion or hearsay, seek supporting information.
6. Ask open not leading questions.
7. Try not to express an opinion – or give the impression that you have an opinion.
8. You can persist with a question if the answer is not clear.
9. Front line staff should not be asked to justify policies or procedures, such questions should be addressed to Managers.
10. A record should be made of the interview and confirmed with the interviewee. The interviewee should sign the record of the interview.

The Report

1. Remember that there are a number of possible recipients of this report and that whilst it is written to inform the Local Authority in reaching its decision on the complaint, it is also written for the complainant and will be a principal source of information should the complaint progress to the Local Government Ombudsman. You must therefore ensure that the report contains enough detail and is written in such a way that will be understood by and will adequately inform each of those audiences e.g.
 - a. Avoid the use of acronyms
 - b. Avoid the use of jargon
 - c. Use plain English.
2. The report should follow this outline format:
 - a. Brief introduction to the complaint.

- b. Background information, enough to set the context of the complaint.
- c. The detail of each part of the complaint.
- d. The complainants desired outcome.
- e. Outline of the process of the investigation eg list sources of evidence, list of people interviewed and whether an advocate or Independent Person was involved.
- f. The findings in relation to each complaint and a conclusion about whether the complaint is upheld, not upheld, partly upheld or unsubstantiated.
- g. Recommendations in relation to the desired outcome or other issues the investigation has found.
- h. Occasionally an investigation may come across issues that are not directly in relation to the complaint but nevertheless are important issues for the Local Authority. These should be reported in a separate addendum for the Local Authority.

SAMPLE FORMAT OF A REPORT – Amber and Red Complaints

1. Front Cover of the Report

The front cover of the report should include the investigating officer's and complainants names and date of the report.

2. Introduction/Background

The report should start with brief details about the service involved and complainant and/or clients.

It should also include relevant information about the background to the case. This could include a brief history of relevant issues of involvement by various parties or background details of the client.

3. Summary of Complaint

This should include:

- Details of when the formal complaint was received and allocated to the investigating officer.
- Who is complaining and what the relationship is between the client and the complainant.
- Detail exactly what the complaint is which service the complaint relates to. List each complaint.
- Where appropriate, include details of whether an Independent Person was used and explain their role.

4. Complainants Desired Outcome

Explain what outcome the customer of their representative is trying to achieve. What are their expectations?

5. Methods Used in the Investigation

- Detail who has been interviewed including their designation. Interviews may be conducted face to face, via telephone or email etc.
- Detail what files, records and other relevant documents that were read.

6. Relevant legislation/procedures and regulations

- Detail what of the above were referred to, e.g. the Health and Social Care Act 2008, Mental Health Act 2007, Teeswide Safeguarding Adults

Procedure November 2008, Code of Practice for Social Care Workers and Code of Practice for Employers of Social Care Workers.

7. Significant Events (Chronology)

A list of significant events which are relevant to the complaint(s). This can be presented as follows:

Date	Details

This section can be included within the main body of the formal complaint report or as an Appendix.

8. Evidence – Findings and Conclusions

8.1 Details of evidence.

8.2 Findings – to assist the reader it is suggested each finding is referenced to each conclusion.

8.3 Conclusion – to explain whether the complaint should or should not be upheld or whether a decision can be reached, e.g. no conclusion can be reached.

8.4 The findings and conclusions should take the reader logically through to see how their decision has been reached.

9. Recommendations

What action should be taken to correct the matter? Reference individual recommendations to findings if appropriate.

10. End of Report

End the report with the investigating officer's signature and date completed.

11. Appendices

These should include any relevant documentation to assist the readers understanding or evidence actions/practice/policy.

SAMPLE FORMAT OF A REPORT – Green and Amber Complaints

Date

Name

Address

Address

Address

Postcode

Dear

Complaint

I write in response to your complaint received in to the department on DATE which has been dealt with under the Statutory Complaints Procedure.

Your complaint related to INCLUDE SPECIFIC INFORMATION AS TO THE ELEMENTS OF THE COMPLAINT.

In order to complete a thorough investigation of the issues raised I have undertaken the following:-

- Obtained the case file from XXXXX Team to read recordings of work undertaken at INCLUDE RELEVANT INFORMATION RELATING TO THE COMPLAINT.
- INCLUDE DETAILS OF YOUR MEETING WITH THE COMPLAINANT TO DISCUSS THE ISSUES RAISED, EXPLAIN HOW THE COMPLAINT WOULD BE DEALT WITH AND THE TIMESCALE.
- INCLUDE DETAILS OF THE MEETINGS YOU HELD WITH STAFF TO DISCUSS THE COMPLAINT.

After you have outlined the details of the complaint and the steps you have taken to investigate it go on to outline your findings. It is important that you are specific as to what if any, elements of the complaints are upheld and what measures will be put in place to reduce the likelihood of such an incident happening again.

Finally conclude your letter with the following:

I am sorry that you felt it necessary to complain and I hope you are satisfied that your complaint has been taken seriously and investigated thoroughly. However, if you remain dissatisfied with this response you should contact Jenette Donkin, Complaints Officer, on (01429) 284020 within 15 working

days of receiving this response. Ms Donkin will talk to you about why you remain dissatisfied and what else you think should be done to put things right.

Yours sincerely,

Your name
Job Title

Date

Name
Address

Dear (Name)

Complaint

I am aware that you have already received a copy of the report into your complaint.

The Department fully accepts the findings of the investigation which are detailed below.

Complaint 1 – *Insert the details.* This element of complaint was: ***Upheld/Not Upheld/Partly Upheld/Unable to substantiate***

Complaint 2 – *Insert each element and the outcome*

It is noted that a number of recommendations have been made as a result of your complaint. I have detailed below each recommendation together with the Department's response on the action taken, or proposed, as a result of these.

Recommendation

Insert the recommendation

Response

Insert the response

Repeat for each recommendation

I am sorry that you felt it necessary to complain and I hope you are satisfied that your complaint has been taken seriously and investigated thoroughly.

However, if you remain dissatisfied with the investigation or this response, please contact Jenette Donkin, Complaints Officer on (01429) 284020 or email Jenette.Donkin@hartlepool.gov.uk by (***Insert 15 working days from date of this letter***). Ms Donkin will talk to you about why you remain dissatisfied and what else you think should be done to put things right, as there may be other ways to help resolve your complaint.

Yours sincerely

UNREASONABLY PERSISTENT COMPLAINANTS & UNREASONABLE COMPLAINANT BEHAVIOUR POLICY

1. Introduction

- 1.1 In general, dealing with a complaint is a straightforward process, but in a minority of cases people pursue their complaints in a way that can impede the investigation of their complaint or can have significant resource implications for the authority. This policy has been formulated to deal with the very small number of complainants whose frequency of contact with the authority, insoluble and persistent complaints, or unacceptable behaviour makes it necessary for special measures to be taken.
- 1.2 Before implementing any of the provisions in this policy, officers must consider whether the Council's procedures have been followed correctly, whether full and reasonable responses have already been given and whether the complainant is now inappropriately persistent or behaving unreasonably.

2. Unreasonably persistent complainants and/or unreasonable complainant behaviour

- 2.1 The following list, whilst not exhaustive, outlines some of the actions and behaviours of unreasonable and unreasonably persistent complainants.
- Having insufficient or no grounds for their complaint and making the complaint only to annoy or inconvenience the Council;
 - Refusing to specify the complaint, despite offers of assistance with this from the Council's staff;
 - Refusing to co-operate with the complaints investigation process whilst still wishing their complaint to be resolved;
 - Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope;
 - Insisting on the complaint being dealt with in ways which are incompatible with the complaints procedure or good practice (e.g. insisting that there is no written record made of the complaint);
 - Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them dismissed or replaced;
 - Changing the basis of the complaint as the investigation proceeds and/or denying statements made at an earlier stage;
 - Introducing new information not related or substantive to the original complaint but which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are fully answered;

- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved;
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into by, for example, excessive telephoning or sending emails to numerous council staff, writing lengthy, complex letters every few days and expecting immediate responses;
- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these “new” complaints which should be put through the complaints procedure.
- Adopting a “scattergun” approach - pursuing a complaint or complaints with different parts of the authority at the same time and/or with a Member of Parliament/a councillor/the authority’s independent auditor/the Standards Board/local police/a solicitor/the Ombudsman;
- Refusing to accept a complaints decision – repeatedly arguing the point and complaining about the decision.
- Behaving in an abusive, offensive or threatening manner towards Council employees or their families (See para 2.2);
- Combinations of some or all of these

2.2 Abusive, offensive or threatening conduct may need to be dealt with through the Employee Protection Register Policy and Procedures. The authority has a duty to provide a safe working environment and system of work for its employees. This policy puts into place a register of people and addresses which constitute a potential threat to the safety of staff when they come into direct face to face contact.

3. Being reasonable

3.1 It is reasonable for complainants to raise legitimate queries or criticisms of a complaints procedure as it progresses. For example, if agreed timescales are not met and a complainant expresses dissatisfaction, this should not, in itself, lead to someone being regarded as unreasonable or unreasonably persistent.

3.2 Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it, e.g. by requesting a member review and/or taking it to the Ombudsman, should not necessarily cause the complainant to be labelled as unreasonable or unreasonably persistent.

3.3 The Council should offer appropriate support to all complainants and be aware of and sensitive to any special needs of the complainant. Consideration should be given to putting people in touch with a suitable agency (e.g. CAB or an advocacy service) which can help them during the complaints process.. There may also be a need for support through the translation of documents into appropriate languages or

formats and interpretation services for meetings etc. (See the Corporate Complaints Procedure, para 3.3)

4. Deciding to take action

- 4.1 The decision to classify a complainant as unreasonably persistent or as behaving unreasonably should be made by the director of the service concerned, in consultation with the Corporate Complaints Officer and the Chief Solicitor. In the case of dispute about the classification of a complainant, the matter will be referred to the Performance Portfolio Holder for a final decision.
- 4.2 A written record should be kept of why the complainant is believed to be unreasonable; what information has been considered; and how decisions have been made. The Council must be able to demonstrate that it has acted in a fair and objective way.
- 4.3 If more than one department is being contacted by the complainant, perhaps with different complaints, the Council must consider setting up a joint meeting to agree a cross-departmental approach and nominating a key officer to co-ordinate the Council's response.

Initial notification

- 4.4 When unreasonably persistent or unreasonable behaviour has been identified, the unacceptable behaviour should be explained to the complainant, usually by letter, and the complainant will be asked to modify their behaviour. An explanation of the action the Council is likely to take if the behaviour is not modified should also be given.

5. Options for restricting a complainant's contact with the Council.

- 5.1 If the complainant does not modify their behaviour, the options which the Council may consider are:
 - a. Refusing to accept a complaint or to amend the terms of a complaint;
 - b. Requesting contact to be in a particular format (e.g. letters only);
 - c. Requiring contact to take place with one named member of staff only;
 - d. Restricting telephone calls to specified/times/days/duration;
 - e. Requiring any personal contact to take place in the presence of an appropriate witness;
 - f. Letting the complainant know that the Council will not reply or acknowledge any further contact from him or her on the specific topic of that complaint;
 - g. Restricting access to one or more Council premises. (N.B. Care must be taken not to interfere with a complainant's statutory rights, e.g. to attend Council meetings or view papers, when making such a restriction.)

5.2 These options are not exhaustive and other factors individual to the case or service may be relevant in deciding on an appropriate course of action. For example, any arrangements for restricting a complainant's contacts must take into account the complainant's circumstances such as age, disability, literacy level, race etc.

5.3 If none of the options listed at 5.1 offer the protection that staff are entitled to, other options may be available, such as issuing an injunction against a complainant or involving the police. These will be considered on a case by case basis, in consultation with the Chief Solicitor.

6. After a decision to restrict contact has been made

6.1 When a decision has been made as to the appropriate restrictions to be used, the departmental director, in consultation with the Chief Solicitor and Corporate Complaints Officer, will write to the complainant explaining the Council's decision and what restrictions are being made and, if appropriate, for how long. A client's special needs, e.g. literacy problems or language difficulties, may make a face to face meeting appropriate to give this information to the complainant.

6.2 If the complainant feels that the authority is acting improperly or unfairly in making the restrictions, they have the option of complaining to the Local Government Ombudsman. They should be informed of this option in the letter laying out the restrictions.

6.3 A copy of the decision letter and a note on the decision should be sent to the Corporate Complaints Officer, all departmental complaints coordinators and departmental directors.

6.4 The Performance Portfolio Holder will be informed of any decisions to restrict contact.

6.5 Appropriate managers and staff, e.g. those likely to be involved in implementing the restrictions should be notified of the decision.

7. Reviewing decisions

7.1 All restrictions will be subject to review, at least once every 12 months. Departments may wish to review within a shorter time period, to take account changes in circumstances and/or behaviour.

7.2 Reviews will be undertaken by the department concerned, in consultation with the Corporate Complaints Officer and the Chief Solicitor. Complainants should be notified that a review has taken place and of its outcome.

- 7.3 The outcomes of all reviews should be sent to the Corporate Complaints Officer, all departmental complaints co-ordinators and departmental directors.

Agreed by: Performance Portfolio Holder, 25th January 2008