

Isle of Wight Council Adult Social Care

Complaints Policy

April 2021

1 Document Information

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Version	Date	Description
V0.1	December 2015	Initial draft
V0.2	December 2015	2 nd draft created with Georgina Carter
V0.3	January 2016	3 rd draft includes Safeguarding Enquiries if Safeguarding concerns are highlighted and a section on how to complain about a Social Care Provider or Residential Homes and amendments by Debbie Morris.
V0.4	January 2016	Amendments made by Debbie Downer, Georgina Carter and Catherine Smith-Ivory on 21/01/16

V0.5	February 2016	Includes comments from Roger Merry, Legal Services and a section on habitual and vexatious complainants
V1.0	9 th March 2016	Approved by Helen Miles in Legal Department 18/02/16. Martin Elliott signed off 22/02/16. Members of the Adult Social Care Leadership Group agreed policy 09/03/16.
V1.1	Oct-Nov 2016	Included a section on refreshed Appeals Process.
V1.2	November 2016	Amendments made by Helen Miles.
V2.0	March 2018	V2.0 replaced v1.2, Nov 16 policy. Minor amendments made by Helen Babington to Section 11. Agreed by Roger Merry 09/03/18.
V3.0	March-April 2019	Annual update. Amendments by Helen Babington. Amendments approved by Helen Babington 28/03/19.
V4.0	April 2020	Annual Review. Updated contact details and text in sections 6, 7, 8 and 14.
V4.1	April 2021	Annual Review. Updated text section 8.

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3. Purpose, Scope and Aims

This policy explains how the Isle of Wight Council (IWC) investigates and manages Adult Social Care complaints, what individuals can do if they are unhappy about any aspect of Adult Social Care Services and what the IWC will do to resolve the complaint. This policy is aimed at good practice guidance and supporting staff to deal with complaints in ways which are demonstrably consistent and fair, and which comply with legislation and best practice.

The IWC are concerned about the quality of care individuals receive and are always striving to maintain high standards of social care with continuous review of everything we do. However, we know there may be times when people are not satisfied with the standard of service they receive.

Individuals have the right to be provided with a full and comprehensive response on behalf of the Director of Adult Social Services to any genuine complaint (subject to receiving relevant consent, if applicable). Therefore, the IWC will fully investigate complaints and keep the individual informed about the progress of the investigation.

This policy is an important and visible sign that the IWC listens and values feedback and strives to improve services. This policy recognises the statutory duty placed on the IWC by the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

This updated policy came into effect on 1 April 2021 and replaced policy v4.0 dated April 2020.

4. What is a complaint?

The Isle of Wight Council defines a complaint as “an expression of dissatisfaction or concern by the public about the standard of service, conduct, actions or lack of action by the Isle of Wight Council or its staff”.

If individuals are dissatisfied or have concerns about any of Adult Social Care’s standard of service, actions or lack of action or its staff, we have a formal complaints process. Please note that this policy is not intended for cases where the IWC has taken a decision in a proper manner but with which the complainant disagrees.

5. Who can complain?

A complaint about any aspect of Adult Social Care Services can be made by an individual, or with their permission, an appropriate representative such as a relative or carer. When a complaint is made on behalf of someone else, a consent form must be completed unless the person making consent has evidence that they hold Power of Attorney or Deputyship for health and wellbeing and/or property and finances, depending on the nature of the complaint.

If the individual to whom the complaint refers lacks capacity to make their own decision, formal consent must be gained from their Power of Attorney/Deputy.

The IWC will only accept complaints from a representative under certain conditions. Either:

- when the individual has consented, either verbally or in writing
or:
- when the individual cannot complain unaided and cannot give consent because they lack capacity within the meaning of the Mental Capacity Act 2005,
and
- when the representative is acting on the individual's best interests: for example, where the matter complained about, if true, would be detrimental to the individual.

Complaints that are anonymously received cannot follow the formal complaint process. However, the details will be taken and passed to the relevant service lead or through the safeguarding process to investigate.

When things go wrong, we aim to put things right quickly.

People can make a complaint if the IWC:

- does something wrong
- fails to do something it should have done
- does something it should not do
- provides a poor standard of service.

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

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

6. How to make a complaint

You can submit a complaint online at: <https://www.iow.gov.uk/Residents/Care-Support-and-Housing/Adults-Services/Adult-Services-Complaints/A-Guide-to-Adult-Services-Complaints>

By completing a complaint reporting form, which can be found at: <https://www.iow.gov.uk/documentlibrary/view/asc-complaint-reporting-form> and then by sending it to the address below.

Or by letter to Adult Social Care Complaints, Isle of Wight Council, Floor 2 County Hall, High Street, Newport, IW, PO30 1UD.

Please note: face to face meetings must be pre-booked. You can make an appointment to meet with the Adult Social Care Complaints Team by telephoning 01983 823340.

You can contact the Adult Social Care Complaints Team on 01983 823340.

If people make a complaint they:

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

If you feel you may require advocacy support to make your complaint, we will talk to you about how best to access this support from an independent agency if it is appropriate to your needs.

To enable the IWC to give proper consideration to a complaint and to be clear about appropriate resolutions, we ask complainants to:

- Tell us clearly what has gone wrong with as much factual information as possible
- Give us the information we may ask for
- Tell us what they would like us to consider doing to put things right
- Make any special needs known to us as soon as they can
- Remain calm and treat our staff in a courteous way
- Remember that we are trying to help

The time limit for making a complaint must be no later than 12 months after:

- the date the event occurred

The time limit will not apply if the IWC is satisfied that:

- the complainant can give a good reason for not making the complaint within that time limit, and
- despite the delay, it is still possible to investigate the complaint effectively and fairly

The final decision will be made by the Nominated Complaints Officer.

7. Habitual Complaints / Unacceptable Complainant Behaviour

A very small minority of complainants make complaints that are habitual and / or they display unacceptable behaviour in doing so, i.e. they persist unreasonably with their complaints, or make complaints in a manner which is deemed unacceptable. The

nature and/or frequency of contact with the IWC can hinder the ability of staff to provide a quality service to individuals as a whole or may cause staff intolerable levels of stress.

It may therefore be necessary to address unacceptable behaviour by restricting contact with the IWC.

We will treat individuals in a considerate and polite way, and we ask that individuals behave in the same way.

Details of how the IWC will deal with habitual complainants and / or unacceptable complainant behaviour are detailed in the Corporate Complaints Policy, which can be accessed online at: <https://www.iow.gov.uk/documentlibrary/view/complaints-policy> and the Corporate Unacceptable Behaviour Policy, which can be accessed online at: <https://www.iow.gov.uk/documentlibrary/view/unacceptable-behaviour-policy>

8. Services delivered by 3rd party providers on behalf of the Council

Individuals may wish to make a complaint about a service which is being delivered by a third-party provider on behalf of the Council, for example a residential or nursing care home, a social care provider or an advocate (this list is not exhaustive). In the first instance, the individual should contact the third-party provider to raise their concerns and follow its internal procedure.

However, if the third-party provider fails to investigate their concerns and/or fails to provide a satisfactory response, the individual can complain to the Council who will then pursue the complaint on their behalf.

9. What happens and how long will it take?

Ideally complainants should raise their concerns at the time with their social care worker, or as quickly as possible after the event, so it is fresh in everyone's mind and can be addressed without the need for a formal process.

All complaints will be investigated and responded to by a person with sufficient seniority to resolve the issues.

Any social care worker will listen to concerns/complaint and wherever possible they will try to initially resolve those concerns informally within 24 hours. This will allow the complaint to be dealt with by social care staff who know the person and/or their family well and are in the best position to resolve concerns quickly.

If the issue cannot be resolved within 24 hours the complaint will be forwarded to the Complaint and Investigation Officer/Nominated Complaints Officer (NCO) by the social care worker. The Complaints and Investigation Officer will record the complaint and instigate the formal process.

The Adult Social Care Complaints Team will acknowledge receipt of the formal complaint within three working days, detailing the fundamental areas of the

complaint. If we need to clarify any detail of the complaint, we will contact the complainant to listen to what they have to say and understand what their problem or concerns are. We will then agree the statement of complaint with them.

Complainants can usually expect a full response to their complaint within 25 working days from agreement of the statement of complaint. However, if the complaint is of a complex nature or needs further investigation or responses from other agencies, the IWC may have to extend this deadline. The IWC will notify the complainant, in writing, if an extension is required.

Complainants will receive (so far as is reasonably practical):

- assistance to enable them to understand the complaint's procedure
- advice where they may obtain such assistance (Please see Section 9 – Appointing an Independent Advocate)
- an acknowledgement of the complaint within three working days
- if the complaint involves more than one provider/commissioner of services, a coordinated response will be provided to the complainant

If the complainant is unhappy with the formal written response, they must outline the areas they are dissatisfied with and inform the Adult Social Care's Complaints Team within 14 days of receipt of the complaint response.

The IWC may then offer an Alternative Dispute Resolution Meeting (ADRM) with the aim of bringing the matter to a satisfactory close. In some circumstances a meeting of this kind may be beneficial to help communication and understanding of complex and/or emotive subjects.

If the complainant does not wish to take part in an ADRM, or, after the ADRM they are still unhappy, they still have recourse to the Local Government and Social Care Ombudsman (LGSCO) (see point 12 below).

If no further response from the complainant is received within 14 days, the case will be closed.

It remains at the discretion of the NCO to use mediation at any point of the formal complaints process if this would enable resolution of the issues complained of. We will discuss this with the complainant, if appropriate.

10. Appointing an Independent Advocate

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

To facilitate the individual's full involvement the local authority should first meet its duty under the Equality Act by ensuring reasonable adjustments are made to reduce

or remove any substantial difficulty a person may have, which may include the appointment of an independent advocate.

Therefore, if a complainant qualifies under certain aspects of the Care Act, Mental Health Act, or the Mental Capacity Act they can have access to help from an independent advocate. A social care worker will identify whether they meet the qualifying criteria.

Please refer to the Adult Social Care's Appointing Independent Advocates Policy available online at: <https://www.iow.gov.uk/documentlibrary/view/appointing-independent-advocates-policy>

11. A complaint will not be investigated under the following circumstances

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

***NOTE:** Safeguarding issues will immediately be referred to the safeguarding process for that investigation to take precedence. Safeguarding will then follow their own internal processes. Details of the Safeguarding Adults Multi-Agency Policy can be found by clicking [here](#). The receipt of any complaint will not put a stop to or delay the safeguarding investigation, which will always take priority.

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

12. The Equality Act (2010)

The Equality Act 2010 applies to the way complaints procedures are followed. If somebody has a disability and that makes it very difficult for that person to use the complaints procedure, then the responsible body has a duty to make reasonable adjustments to the procedures to assist that person access the complaints service. A reasonable adjustment might be providing complaints information in a larger font or

identifying an advocate to support a complainant who has a mental health condition (see disability discrimination under the Equality Act 2010).

13. Appeals Process

An appeal is a request for a review of a decision(s) taken by the council about a Care Act Assessment, a financial assessment, a personal budget funding allocation or an independence plan. It is one of a range of options for dealing with concerns or complaints.

Any adult can appeal who is already receiving social care support, or to whom the council have a duty to provide support to, or who are acting as their representative e.g. carer, relative or advocate.

The following issues can be dealt with through the Adult Social Care Appeals Process:

- Eligibility status
- Final decision response by IWC to one or more of the questions in a Care Act Assessment
- Indicative Budget Allocation
- Limitations within an independence plan
- Financial assessment and contribution to care costs

If individuals disagree with a decision made about their adult social care needs, finances, or a decision taken about their Independence Plan, they can appeal by completing the Appeal Form which can be found online at:

<https://www.iow.gov.uk/azservices/documents/2703-ASC-appeals-FACTSHEET-AND-ASC-APPEAL-FORM-v1.pdf>

The form will need to be completed and returned to the IWC within 10 working days of their signed agreed assessment. The form also explains how the IWC deal with appeals. If individuals need help to make an appeal, they can contact their social worker who will help find an advocate if this is appropriate. This could be a family member, a friend, or if this support is not available, someone independent.

If individuals wish to make a complaint about another matter or concern they need to use the complaints procedure which can be found online at:

<https://www.iow.gov.uk/council/OtherServices/Adult-Services-Complaints/A-Guide-to-Adult-Services-Complaints>

If you wish to make an appeal, you need to complete the Appeals Form available online at: <https://www.iow.gov.uk/azservices/documents/2703-ASC-appeals-FACTSHEET-AND-ASC-APPEAL-FORM-v1.pdf> and send it to us **within 10 working days of your signed agreed assessment**. If you prefer, you can call Adult Social Care on 01983 823340 and they can send a form to you in the post.

14. The Local Government and Social Care Ombudsman (LGSCO)

If an individual remains unhappy with the outcome of the complaint, they can pursue their dissatisfaction by asking the Local Government and Social Care Ombudsman (LGSCO) to review the complaint. They must have gone through the council's complaints procedure, which can be found online at:

<https://www.iow.gov.uk/council/OtherServices/Adult-Services-Complaints/A-Guide-to-Adult-Services-Complaints> before contacting the LGSCO.

The Ombudsman investigates complaints in a fair and independent way - it does not take sides. It is a free service.

The Ombudsman expects the individual to have given the council chance to deal with the complaint before they contact them. If they have not heard from the council within a reasonable time, it may decide to look into the complaint anyway.

The Local Government and Social Care Ombudsman is the final stage for complaints about councils and some other organisations providing local public services. It also investigates complaints about all adult social care providers (including care homes and home care agencies) for people who self-fund their care.

Please note that on occasion there are complaints the LGSCO cannot or will not be able to investigate. In such circumstances, the LGSCO will explain clearly if this is the case, and the reasons why this decision has been given.

You can contact the Local Government and Social Care Ombudsman as follows:

Website: www.lgo.org.uk Telephone: 0300 061 0614

Their opening hours are Monday to Friday: 10am to 4pm (except public holidays).

The above information can also be found in Adult Social Care's Compliments Feedback and Complaints Guide, which can be found online at:

<https://www.iow.gov.uk/documentlibrary/view/compliments-and-complaints-factsheet-adult-social-care> and is also available as an easy read version, which can be found online at: <https://www.iow.gov.uk/documentlibrary/view/compliments-and-complaints-factsheet-easy-read-adult-social-care> .