

## Complaints Annual Report 2018 – 2019

### Appendix A – Adult Social Care Statutory Complaints

#### 1. Summary

- 1.1 This report provides an overview of complaints made about Adult Social Care (ASC) during 2018 – 2019, as required under The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009, the Health and Social Care Community Health & Standards Act 2003 and the Local Authority Social Services Complaints (England) Regulations 2006.

#### 2. Statutory Complaints Process

- 2.1 The Department of Health defines a complaint as, *“an expression of dissatisfaction or disquiet about the actions, decisions or apparent failings of a Council’s adult social care provision which requires a response”*.
- 2.2 Anyone who has received a service, is currently receiving a service or is seeking a service from us can make a complaint. This includes anyone affected by decisions we make about social care, including a service provided by an external provider acting on behalf of the Council. In such a case they can complain directly to the provider or to us. External providers are required to have their own complaints procedures and must comply with them. They are also required to share information on complaints and outcomes with the Council.
- 2.3 There is only one stage in this statutory process which the Council has interpreted as a provisional response and a then final decision. All complaints made to the Council are logged and acknowledged. The Council will try to resolve the provisional complaint as soon as possible, and within 25 working days. If delays are anticipated, the complainant is consulted and informed appropriately. All responses, whether or not a timescale has been agreed with the complainant, must be completed within six months of receiving the complaint.
- 2.4 All complaints are signed off by the Head of Service and complainants are given the opportunity to have their complaint reviewed by the Strategic Director, Community Wellbeing or the Operational Director, Adult Social Care. In some cases, some complaints may need to be passed on to the Safeguarding leads as appropriate, where the complaints process may be suspended in order to allow the safeguarding process to be completed. In cases where the complaint is across several organisations, one organisation will act as the lead and co-ordinate a joint response to the complainant. The final complaint response must set out the Council’s standard paragraph advising of their right to approach the Local Government & Social Care Ombudsman (LGSCO) should the complainant remain dissatisfied.

#### 3. Headlines

- 3.1 The main headlines from ASC complaints performance are:
- 101 complaints received at the initial stage in 2018/19 an increase of 37% on 2017/18.

- Highest volume service areas for first stage complaints – Complex Care 37%, Urgent Care 41%, Partnership and Integration 11%
- 45% of Stage 1 cases were upheld or partly upheld.
- 96% of Stage 1 complaints were responded to on time.

#### 4. ASC Service Users

4.1 In order to put the complaints into some context, ASC received 3,958 contacts from individuals including contacts made through Brent Customer Services (BCS) and the Duty Team. ASC assessed 2,440 service users for homecare services and 923 were assessed for residential / nursing services. There were 2,515 individuals who received section 5 hospital discharge assessments. This means that 1.2% of ASC service users or someone acting on their behalf raised a complaint about a service that they had received in 2018-19.

#### 5. Complaints Received

5.1 ASC received 101 Statutory Complaints in 2018/19. Over the preceding five years, statutory complaints for ASC have been fairly consistent in the numbers received, however this year has seen an increase in statutory complaints of 48%.

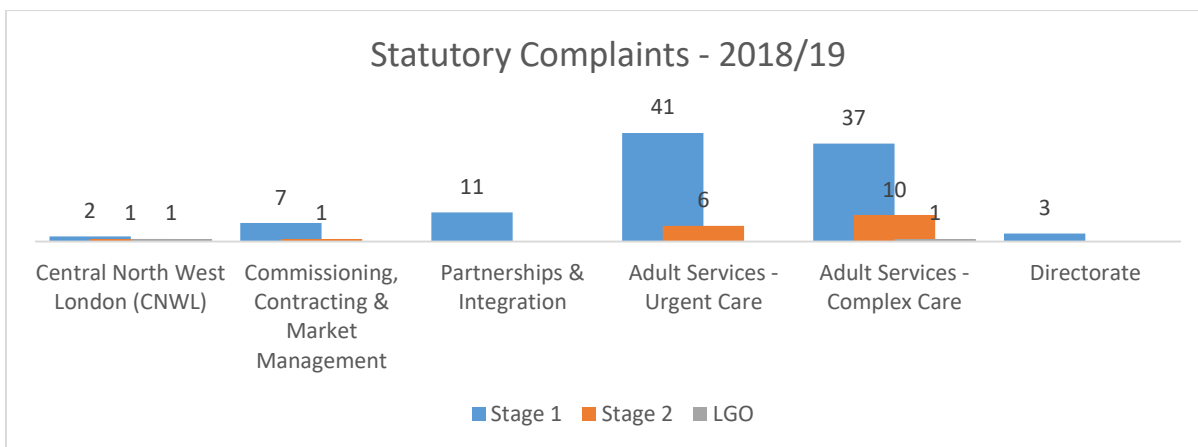
5.2 Statutory complaints centre around the Care Act and largely relate to a service users' care needs assessment or provision of social care needs either through, homecare services or residential care. The main areas where ASC have seen increases in complaints is Urgent Care and Partnerships and Integration.

- **Complex Care:** received 37% of all statutory complaints made to ASC which is 12% down compared to last year, although there was an increase in numbers on the previous year. This team handles the more complex support cases and annual reviews and are expected to manage the realistic expectations of the families and service users in regards to the package of care they are entitled to. The complaints that the team receives relate to disagreements with the decisions around care packages / assessments, delays in receiving an assessment or Occupational Therapy assessments and complaints concerning communication from social workers. The service users and their families may have a higher expectation of the services the Council is actually able to provide. The Council also has to consider value for money, as well as the needs of the service user when it is providing services. These are complex and sensitive matters and can lead to disputes between the parties.
- **Commissioning Contracting and Market Management:** this team manages the contracts for residential nursing homes, homecare providers and supported living. There is a perception that the Council receives a lot of complaints about its home care providers, however this is not borne out in the statistics. There were 7 cases received in 2018/19, which accounts for 7% of the overall complaints received for ASC. This is a decrease of one on the preceding year. The Council does a lot of work with its home care providers in order to resolve any problems at the first point of contact. The majority of concerns received are reported directly to the home care provider and resolved by them. Concerns can also be raised directly with the commissioning team who will resolve such matters with the provider. service users are also made aware of the Council's complaints process if they wish their concerns to be investigated by the Council. The Commissioning

team covers Direct Payment, Residential Care and Home Care including invoicing with the Client Affairs Team and Supported Living team. The majority of complaints received concerned the provision of and billing for home care they receive. Complaints concerning invoicing for work that has not been provided, for example when a service user has been admitted to hospital and the service has been suspended. At present the Council's data systems do not share information, so when an invoice is sent, unless a physical adjustment has been made, it will charge for the amount of hours that we expect to provide rather than the actual hours worked.

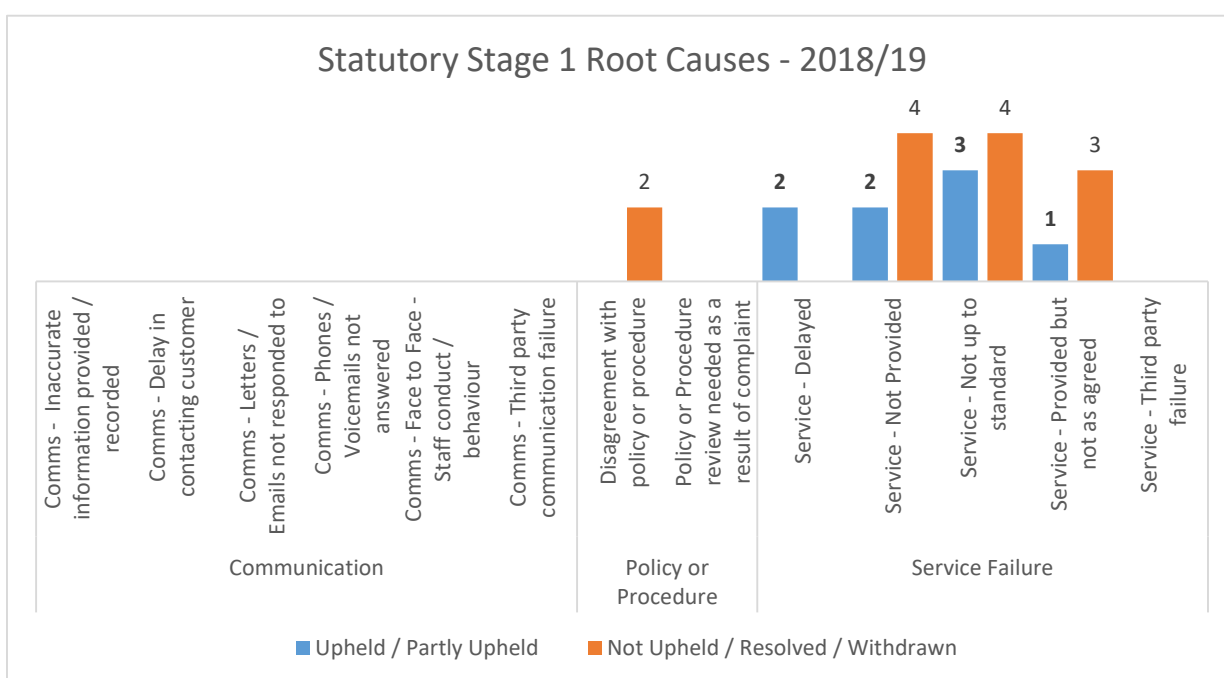
- **Urgent Care:** includes Duty Team, Safeguarding and Hospital Discharge teams and accounted for 41% of all complaints received by ASC. This is a 86% increase on complaints received in 2017/18, and the number of statutory complaints for this team has nearly doubled, rising from 22 to 41. The largest area receiving complaints was the Duty Team which received 19 complaints concerning delays where the complainant had been placed on the waiting list for receiving a care needs or OT assessment, and in some instances were unhappy with the approach of the officer dealing with their case. The Hospital Discharge Team received 15 complaints which concerned the discharge of service users from hospitals. The nature of complaints was around communication / feedback, disagreement / delays in packages of care being put in place (home care) and delays in being assessed for the home or placing patients in a residential setting, and co-ordination with the NHS. Complaints received for the Safeguarding team related to the difficulties in managing the expectations of families who are often in dispute with each other over the financial / welfare of the service user.
- **Partnerships & Integration:** This team manages our Direct Services such as the John Billam Resource Centre and the Council's partnerships with the NHS Reablement and Mental Health team. This team accounted for 11% of the complaints received for ASC which is an increase of 5% on 2017/18. The majority of these complaints concerned mental health services with issues around the withdrawal of section 117 funding for care and general support provided to service users.

- 5.3 There is a general trend in all areas around communication, whether it be regarding communicating a decision made or explaining the position at that point in time.
- 5.4 Of all the complaints received, 65% came to the Complaint Service Team, the main line of communication being email at 48% and 35% through the self-service portal. The ASC Complaint Legislation informs the Council that complaints should be received by any means, and in the discussions we have had with various disability groups, they have highlighted that access to the ASC complaints process should be easy for all and that not everyone has or is capable of accessing the self-service portal.
- 5.5 The chart below shows the number of ASC statutory complaints received in 2018/19. Of the 101 statutory complaints received, 18 were escalated to the final review stage and 2 to the LGSCO. This is to be expected with the increase in complaints. It is the more complex cases that tend to escalate.



5.6 The escalation rate for statutory complaints was 18% in 2018/19 compared to 22% the previous year. An overall decrease of 4%. Outcomes from these cases are discussed later in the report. ASC actively try to resolve problems or concerns; however, the more complex cases do escalate, hence the most of the stage 2 requests came from Urgent and Complex Care teams. The Complaints Service team continues to work with the ASC Operational Director and their management team to ensure complaints are proactively responded to. The Complaints Service team held four complaint training sessions for ASC managers and staff throughout the year and also attended team meetings to explain the complaint process and present complaint data and feedback.

## 6. Nature / Reasons for Complaints

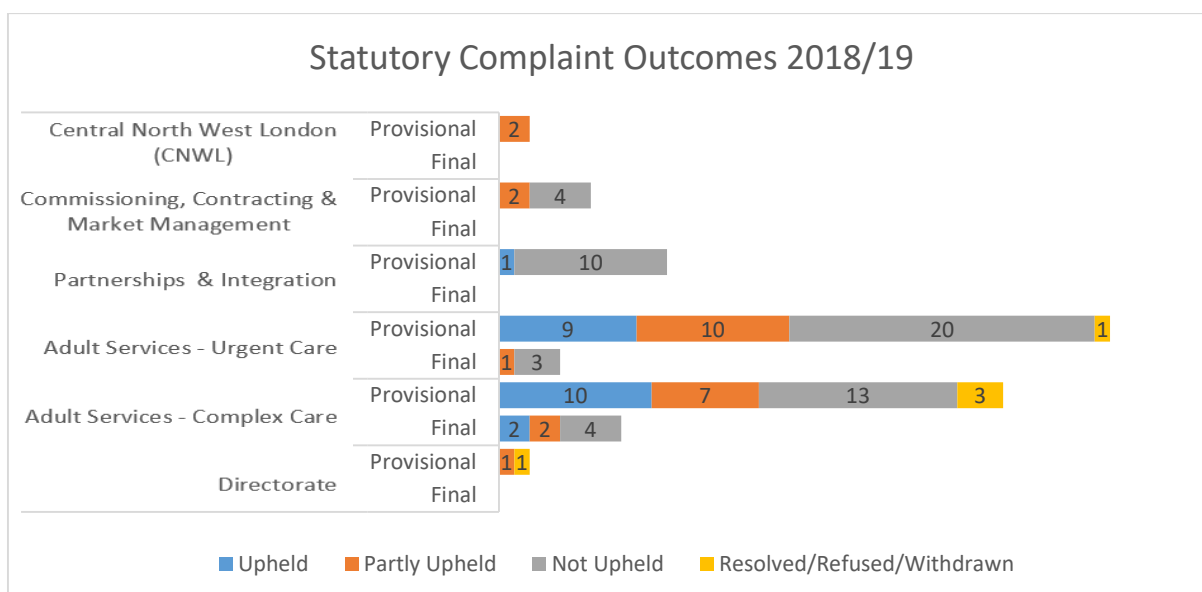


6.1 The recording of root causes has been poor and complaints about service failure accounted for 90% of those complaints where the nature of complaint has been recorded (19 out of 21 cases). Of these 19 cases, some fault was found in 58% of cases.

6.2 Where some fault was found, these concerned delays with providing service users with Care Needs Assessments or Occupational Therapy Assessments. ASC has had a waiting list for assessments for both services, although all new requests are assessed when received and if urgent are prioritised.

## 7. Complaint Outcomes

7.1 The chart below shows the outcome of statutory complaints at Stage 1 and final review stage:



7.2 Complaints received at the first / provisional stage shows that some fault (upheld or partly upheld) by the Council was found in 45% of cases; this compares to 44% in 2017/18. The Council welcomes complaints from service users about the services we provide and outcomes from the complaints feed into service improvement and the transformation of services

7.3 At the final review stage some fault was found in 38% of cases, down from 39% in the previous year 2017/18. The number of final review complaints decreased by five to 13 from 2017/18, of which some fault was found in five of these cases.

7.4 The complaint escalation rate has decreased, although there was a significant increase in complaints received, more were resolved at the first stage.

7.5 Where complaints are complex and involve a number of teams, they tend to escalate to the final review stage. The complaint service team is working with ASC to review the accuracy and quality of the stage 1 responses, where they have escalated to the final stage, and will be reporting the findings to the ASC management team in order to implement strategies to reduce the number of escalations.

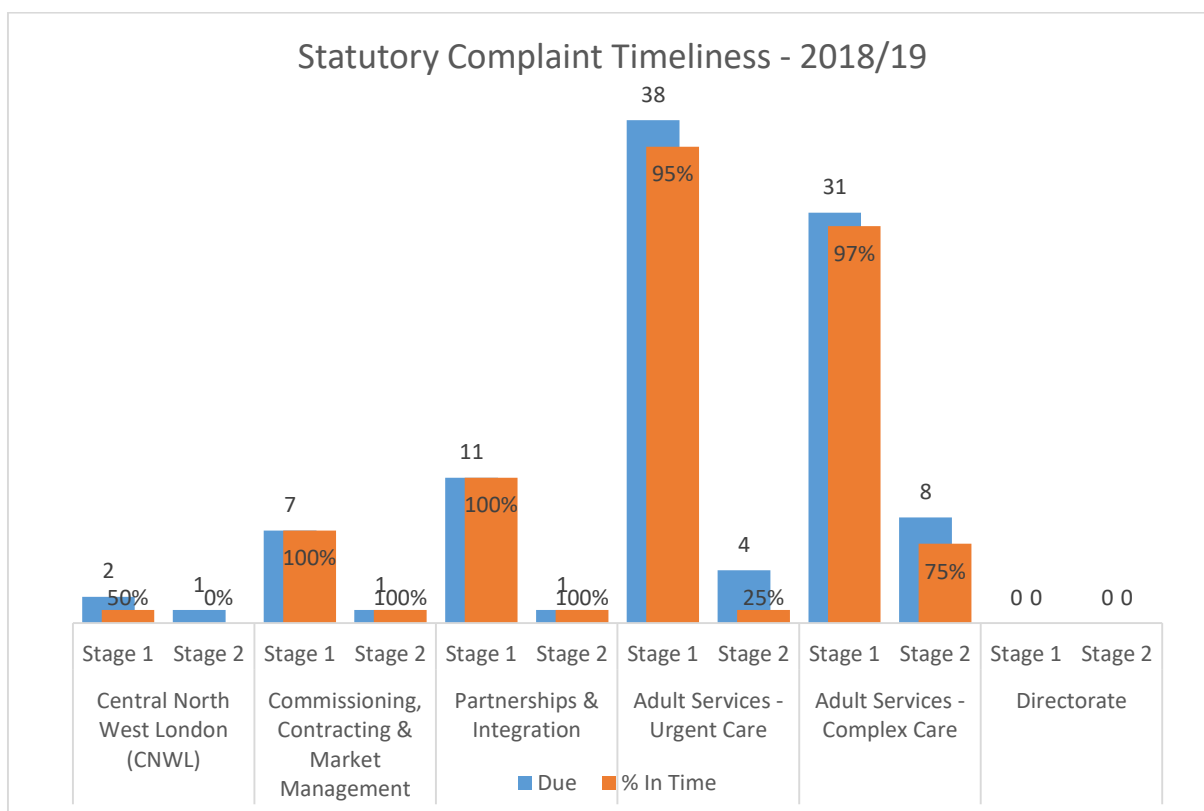
7.6 Although ASC has introduced an appeal service, numbers show that this is rarely used and the indication is that service users are still using the complaint process in order to argue their case to retain or improve their care package and protect their services. Service users should be encouraged to appeal decisions made.

7.7 The Complaints Service team continues to work with managers in ASC to ensure the quality of complaint investigation and responses provided to the complainant address all issues raised. The very nature of some of the complaints are complex and service users and their families will take their complaint through to the final stage.

7.8 Some service improvements identified at the Final Review stage have been included in point 14 Learning from Complaints.

## 8. Timeliness of Responses

8.1 The chart below shows Stage 1 complaint response times across the various ASC service areas in 2018/19:



8.2 ASC responded to 96% of all complaints within timescales, the same as the preceding year. In effect out of 89 complaints replied to, only 4 were slightly overdue and considering the complexity of some of the cases investigated, which may also require consultation with external partners, this rate is acceptable. Although this figure is below the Council's target of 100%, there has been considerable improvement over the last five years. There is a continued focus within the department to achieve the Council's target of 100%.

## 9. Compensation

ASC	Total	
	No of Cases	Amount
Stage 1 / Provisional	4	£350
Stage 2 / Final	2	£450
Ombudsman	2	£300
£ per Case	£138	£1,100

- 9.1 ASC paid a total of £1,100 in compensation for the year 2018/19, which comprised of eight cases and was £12,845 down on the preceding year. Two cases were paid compensation at the final review stage and the LGSCO also awarded compensation in two cases. These two cases amounted to £300 which highlighted that the LGSCO thought that although there was error on the part of the Council, they did not think that these were serious cases of maladministration. The Council follows the guidelines that are published by the Local Government Ombudsman.

## 10. Local Government Ombudsman Decisions in 2018/19

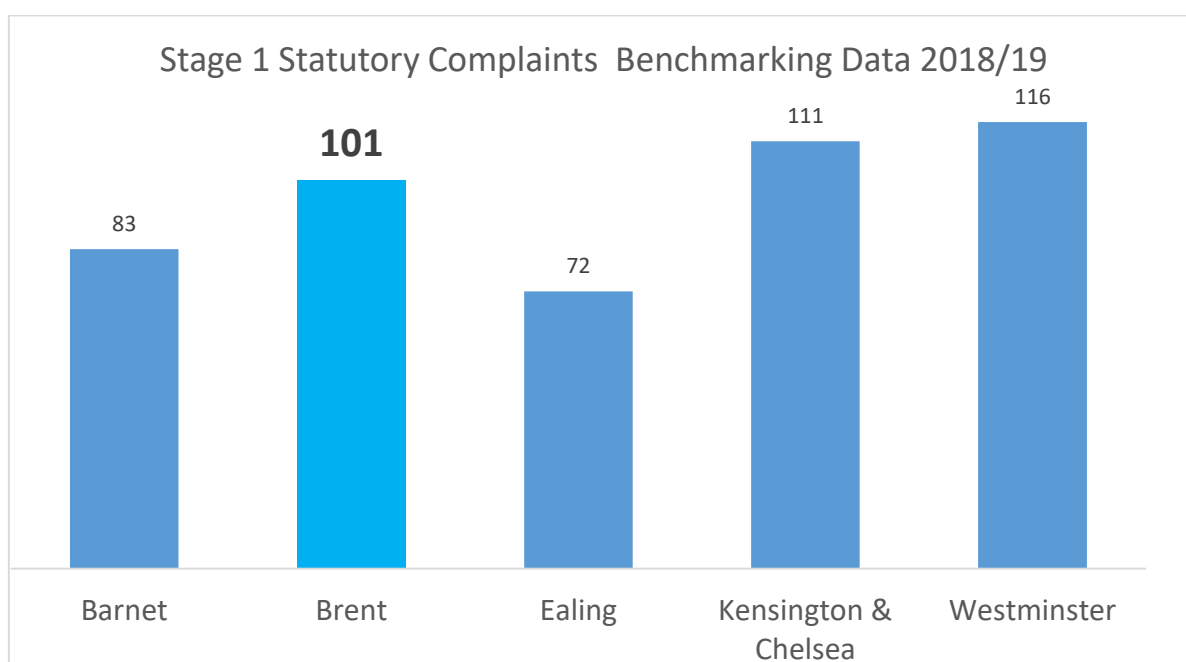
- 10.1 The Local Government & Social Care Ombudsman reviewed 31 cases for ASC, an increase from 27 cases in 2017/18. Of the decisions made, 12 cases were referred back to the Council as they had not completed our complaint process. A further 6 cases were closed after initial enquiries with no further action to be taken. Of the remaining 13 cases, 3 cases were 'not upheld' and 10 cases were 'upheld'. Of the 10 cases upheld, three concerned blue badges which the LGSCO classify as Adult Social Care, but in Brent are reported under the Resources Department and categorised differently, therefore these have not been included in this report. It is also worth noting that four of the seven cases that were upheld relate to the same family from whom we have received numerous complaints across the Council and have difficulty in managing their expectations. The cases which were upheld are detailed as follows:

- **Case 1:** The complaint revolved around the Council refusing to allow the complainant to continue to use their direct payments to employ their son as a carer because he lived at the same address. The complainant also complained that the Council had unreasonably sought repayment of direct payment monies intended for the employment of a second carer. The LGSCO decided that the Council was not at fault however, they stated the Council missed several opportunities to respond to the situation earlier.
- **Case 2:** The complaint referred to paying for a care service that was not being provided. During the LGSCO investigation further information became available about the home care provider. On reviewing the information, the Council suggested a remedy, which was accepted. Although the LGSCO agreed the remedy, they stated that the Council had failed to carry out proportionate and robust investigations at the time of the complaint to determine whether or not other service users had complained about the same provider.
- **Case 3:** The complaint was made following a hospital discharge. There was a delay in reviewing a care plan and sending carers to attend to the complainant. In addition to this, carers were often changed and they appeared to be untrained. The LGO stated that the Council should have reviewed the Care Plan prior to discharge from hospital, not a few days afterwards, and recommended we pay compensation of £200. The LGO went through every home care log sheet and found a number of missed calls. Although the care provider is responsible, we have ultimate responsibility as we purchased the package.
- **Case 4:** This case relates to Case 1 above. The complainant states that the Council failed to carry out a competent care assessment of their needs and failed to provide adequate support. The LGO requested an apology to be sent to the complainant for the Council's poor written communication.

- **Case 5:** This case relates to Case 1, regarding the same family and is about using their direct payments to employ a family member. In this instance, the LGO awarded £100 compensation in recognition of the unreasonably delayed final complaint response.
- **Case 6:** This case relates to Case 1 and the Council’s failure to carry out competent assessment for the complainants’ needs and to provide care and support in line with their assessed needs. The LGO agreed with the Council’s outcome and corrective actions to prevent future failings to service users, but still decided to uphold the complaint.
- **Case 7:** This case relates to the Council’s actions in taking recovery action against the complainant for their late father’s unpaid care fees debt. It also concerns the level of fees he was charged between 2007 and 2010. The LGO decided not to investigate this complaint because the Council had made a reasonable offer to remedy the inappropriate recovery action. However, the case was still recorded as upheld.

## 11. Benchmarking

11.1 Brent Council belongs to the North West London Social Care Complaint managers group and the London wide group. The Council is currently benchmarking complaints against neighbouring Councils and has gathered some basic feedback on the volume of complaints received. The Council has requested more detailed information in order to compare data on all aspects of the complaints performance. When considering the volume of Stage 1 complaints received, Brent have received the third lowest amount of statutory Stage 1 complaints when compared to four of its neighbours who have agreed to share information. This however, is not necessarily the most reliable indication of performance. There are other factors to consider when interpreting the overall volume of complaints, such as demographic differences and population size. The Council records all complaints, appeals and service requests on one case management system to ensure that all contacts are captured.





## 12. Customer Feedback and Engagement

12.1 The majority of customer contact with the Complaints Service team is reactive in that the team responds to direct contact from customers and their representatives when they report a problem with a service. Through the initial contact, the team has managed with ASC managers, to resolve a number of complaints at the first point of contact e.g. delayed OT assessments / care assessments. Finding early resolutions to invoicing / billing queries that could have turned into more formal complaints. The team has conducted presentations to Disability Groups and Healthwatch. They have also attended meetings to introduce the ASC complaints procedure and provide advice on the ASC complaint processes.

## 13. Compliments

13.1 Customers and their representatives are encouraged to tell the Council if they are satisfied with their care or to highlight good service. People can send feedback to the Complaints Service team or ASC directly. In 2018/19, ASC and the Complaints Service team received 14 compliments about ASC. The Complaints Service team is working with ASC to ensure they capture all the compliments received by the service. Below are examples of compliments that staff in ASC have received:

- *LD Support Planning Team*

*"I want to thank you for the amazing job you have done from start to finish. Space will not allow me to express my sincere thanks and gratitude, for all you have done not only for xxxx but also for me. You have made such a difference to our lives!*

*From the very first meeting you correctly assessed that xxxx's needs were not being met. I walked away from that review meeting having hope that things could change for the better with your involvement.*

*You have diligently and thoroughly worked effectively for xxxx. You listened, were non- judgemental, and ALWAYS explained procedure and the possible outcomes. You NEVER once gave us false hope only possible realistic outcomes. You were professional at all times and so personable with it. This made everything more tolerable and instilled confidence that you knew your job and what you were doing.*

*You got to know xxxx and me beyond the paper work, allowing us to be free and relaxed in your presence. I always felt you were empathetic to what we were going and had gone through, but that you also had a clear understanding of what we wanted for xxxx's life and future."*

- *Commissioning, Community & Preventative Team*

*"I just want to say a massive thank you for all your amazing work which helped us find a wonderful and safe new home for my dad.*

*We couldn't have done it without you! Your help and support is so appreciated!*

*Thank you very much!"*

- *Complex Care Older Person / Physical Disability Team*

*“I just wanted to say a big thank you for your help, advice and support in getting me some respite from caring for my mum. I had a lovely break and a good rest. I had sunshine which helped my back and leg pain. I think it did mum some good too ..... They said She was well behaved, no problems. She came home looking refreshed.”*

*I know it took us a long time but it was worth it in the end. I am looking forward to the next 2 weeks in the autumn.*

*Thank you once again and God Bless you.”*

## 14. Learning from Complaints

- 14.1 Learning from complaints provides opportunities for services to be improved and shaped by customer experience. ASC managers are encouraged not only to respond to complaints fully but to identify learning points that can help improve services. Here are some examples of how complaints have changed and improved service delivery:

Customer Feedback - ‘You Said’	Service Area Changes - ‘We Did’
<ul style="list-style-type: none"> <li>• You told us that you were concerned about the way your complaint has been handled</li> </ul>	<ul style="list-style-type: none"> <li>• ASC have asked managers to discuss the learning points from the complaints handling process in team meetings. The Complaints Team Manager will also attend team meetings to highlight complaint handling generally.</li> </ul>
<ul style="list-style-type: none"> <li>• You have told us that you were not aware of any changes to your parent’s care needs</li> </ul>	<ul style="list-style-type: none"> <li>• ASC will ensure that for future care assessments, a member of the family is invited to attend. However if the individual being assessed doesn’t want a member of family to be present, this will be respected.</li> </ul>
<ul style="list-style-type: none"> <li>• You told us you had not received any notification of charges regarding a service user who did not have capacity</li> </ul>	<ul style="list-style-type: none"> <li>• ASC have reminded staff that records should prominently detail contact details for the person acting on the service user’s behalf.</li> </ul>
<ul style="list-style-type: none"> <li>• The LGSCO found fault with the monitoring of services provided by our home care provider</li> </ul>	<ul style="list-style-type: none"> <li>• ASC has reviewed the way that it monitors its home care provider. It now monitors providers on a schedule, but takes a risk based approach where there is intelligence to justify this. This could include complaints, feedback from CQC or safeguarding concerns, in which case it would increase the frequency of monitoring and carry out unannounced visits.</li> </ul>

<ul style="list-style-type: none"> <li>• During an investigation we found that care home providers were having difficulty finding dental services for residents</li> </ul>	<ul style="list-style-type: none"> <li>• ASC to liaise with care home managers and NHS England to improve access to dental services.</li> </ul>
<ul style="list-style-type: none"> <li>• The LGSCO found fault with the recording of Exception Requests for Direct Payments</li> </ul>	<ul style="list-style-type: none"> <li>• Managers and staff in ASC have been reminded to ensure that they record detailed decisions on case files.</li> </ul>
<ul style="list-style-type: none"> <li>• Delays in ASC duty team with care needs and OT assessments.</li> </ul>	<ul style="list-style-type: none"> <li>• Reconfigured the Duty Team and provided clear targets.</li> <li>• Training provided to managers and staff to triage referrals and avoid inappropriate referrals.</li> </ul>
<ul style="list-style-type: none"> <li>• The Hospital Discharge Team you advised that there was a lack of communication/feedback. Delays in assessments and care being provided</li> </ul>	<ul style="list-style-type: none"> <li>• Reconfigured HDT and the number of staff at the different hospital sites.</li> <li>• Better communication with Hospitals.</li> <li>• Where possible patients have been discharged using Homefirst service.</li> <li>• Commissioning are ensuring any request for a package of care is actioned on the same day</li> <li>• Escalation procedure agreed with hospitals and CCG.</li> </ul>