

## Complaints policy

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| <b>Policy number</b>   | ACM32                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <b>Ratified</b>        | Governance Committee                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Outcome</b>         | This policy sets out the Company's approach to managing, promptly responding to and resolving complaints and using lessons learnt to support our drive for continuous improvement.                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Cross reference</b> | ACM94 Accessible Communications policy<br>ACM37S Adult Support and Protection policy (Scotland)<br>ACM68S Adults with Incapacity policy (Scotland)<br>ACM71 Advocacy policy<br>ACM79 Consent policy<br>DP14 Data Breach policy<br>ACM78 Duty of Candour policy<br>ACM30 Guardianship policy<br>ACM87 Incident & Accident Management policy<br>ACM68E MCA/DoLs policy<br>ACM37S Protection of Vulnerable Adults policy (Scotland)<br>ACM80E/S Regulatory Notifications policy<br>ACM88 Root Cause Analysis procedure<br>ACM37E Safeguarding policy<br>HR009 Whistleblowing policy |
| <b>Forms</b>           | ACM32a Complaints leaflet<br>ACM32b How to complain if you are not happy (England)<br>ACM32c How to complain if you are not happy (Scotland)<br>ACM32d External contact addresses<br>ACM32e Compliments log<br>ACM32f Complaints log<br>ACM32g Template letter acknowledging complaint<br>ACM32h Template holding letter<br>ACM32i Complaints management questionnaire                                                                                                                                                                                                           |
| <b>References</b>      | Care Quality Commission (Registration) Regulations 2009<br>The Care Standards Act (Scotland) 2000                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  | <p>The Community Health &amp; Social care (Scotland) Act 2002</p> <p>Data Protection Act 2018</p> <p>Equality Act 2010</p> <p>The General Data Protection Regulation</p> <p>The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014</p> <p>The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015.</p> <p>Health and Social Care Standards, Scotland, 2017</p> <p>Mental Capacity Act, 2005</p> <p>Public Services Reform (Scotland) Act 2010</p> <p>Regulatory Reform (Scotland) Act 2014</p> <p>Scottish National Care Standards Adults with Incapacity (Scotland) Act 2000</p> <p>The Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011 (SSI 2011/210) and Amendment Regulations 2013</p> <p>The Social Care and Social Work Improvement Scotland (Applications) Order 2011</p> <p><a href="http://www.legislation.gov.uk/ssi/2011/29/made">http://www.legislation.gov.uk/ssi/2011/29/made</a></p> |
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## Complaints policy

### 1 Purpose

- 1.1 The purpose of this policy is to provide a clear process for Colleagues to appropriately manage and promptly respond to complaints. Our approach is in line with guidance from CQC and CI and their preference for the services to be open and transparent.
- 1.2 This policy applies to all Residents, their families, visitors and other parties with whom we have involvement. It covers both formal and informal complaints about care and non-care issues and about Colleagues, other Residents or other people such as visitors, contractors etc.
- 1.3 Complaints remain the responsibility of the Home Manager and should be resolved locally wherever possible. Support is provided by the Divisional Director and the Quality Manager where appropriate.
- 1.4 The Complaints policy does not prejudice the right of a complainant to take legal action.
- 1.5 This policy should be read in conjunction with the relevant policies and manuals on the front cover of this policy.

### 2 Policy Statement

- 2.1 We welcome compliments and complaints from Residents and others because they support our safety culture and our drive for continuous improvement. We aim to resolve complaints promptly and satisfy complainants without their needing to progress to a formal complaint.
- 2.2 Where a complaint becomes formal, our process has two clear stages and we would expect to resolve the majority at the first stage:
- Stage 1: Care Home Level
  - Stage 2: Divisional Level – internal appeal made to:
    - Divisional Director and, following this, if still dissatisfied:
    - Head of Quality and Compliance or Chief Operating Officer
  - If the complainant remains dissatisfied, they may wish to refer the matter to the relevant Ombudsman for Independent External Adjudication.
- 2.3 The intention of this policy is to:
- describe what information is available for Residents and others on how to make a complaint, with contact points, and our approach
  - provide clear and easily understood guidance on handling compliments and complaints:
    - recognizing and recording compliments and complaints
    - responding verbally and in writing in an open and transparent way
    - timescales for response
    - investigating thoroughly
    - complying with all the steps of Regulation 20 of the Health and Social Care Act, the Duty of Candour (England), where relevant
    - appeals and adjudication
    - involving relatives and maintaining confidentiality

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- dealing with habitual or vexatious complainants
- extract lessons learned and share these within and between our Care Homes, and with external partners where relevant, in order to reduce failures and incidents
- ensure compliance with legislative requirements by indicating the Company's duties and legal obligations to support Residents as outlined above and co-operate with any external review which may be required.

**2.4** This policy applies to all Advinia Colleagues including volunteers and contractors.

**2.5** Advinia Colleagues have a duty to ensure the maintenance and improvement of health, safety and welfare for themselves, other Colleagues, Residents, the public or anyone else who may be affected by the Company's work.

**2.6** Colleagues and others should raise any concerns with the Care Home Manager in the first instance. Where necessary, they may wish to raise these concerns in the public interest in line with Advinia's *Whistleblowing Policy (HR009)*.

**2.7** In the event that circumstances arise that are not detailed in this policy, Colleagues must seek advice from the Care Home Manager in the first instance, then the Divisional Director and/or the Head of Quality and Compliance.

**2.8** To ensure Colleagues are aware of this policy and procedures, this document will be circulated to all Directors, Heads of Service, Divisional support Colleagues and Care Home Managers. They are responsible for ensuring that Colleagues in their area, including contractors and volunteers, where relevant, comply with the principles and detail within this policy.

### **3 Definitions**

- **complainant** – the person making the complaint
- **complaint** – a concern or dissatisfaction raised by a user of Company facilities
- **vexatious complainant** – a person making repeated complaints without merit which made with the intention of causing inconvenience, harassment or expense to the company.

### **4 Responsibilities**

#### **4.1 Chief Executive/Chief Operating Officer**

The Chief Executive and Chief Operating Officer are responsible for ensuring that a governance framework and policies are in place and followed, including a Complaints policy.

#### **4.2 The Head of Quality and Compliance**

The Head of Quality and Compliance is the delegated lead executive for:

- policy development in relation to care services
- strategic oversight of incidents, accidents, serious untoward incidents, near misses, safeguarding and whistleblowing alerts and complaints in relation to Resident safety and welfare.

#### **4.3 Head of Human Resources (HR)**

The Head of HR is the delegated lead executive for Human Resources, providing overall direction to the HR aspects at Company and local level and ensuring that Colleagues employed are suitable and qualified to undertake their position.

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#### 4.4 Head of Learning and Development (L&D)

The Head of L&D is the delegated lead executive for training and development. This role includes leading on training opportunities to meet best practice requirements of the workforce.

#### 4.5 Divisional Directors

Divisional Directors are responsible for:

- ensuring that this policy is brought to the attention of all Colleagues within his/her specific area of responsibility and implemented by their Home Managers
- assisting Care Home Managers, where needed, to promptly resolve any concerns indicated by complaints and ensuring that relevant investigations, corrective actions and correspondence with the complainant are carried out promptly and as required.

#### 4.6 Quality and Compliance Managers

Quality and Compliance Managers are responsible for supporting Care Home Managers with inspections and continuous improvement. Complaints will be escalated to them at Stage Two for investigation and management if the Divisional Director has already been involved earlier in the process.

#### 4.7 Care Home Managers

Care Home Managers are responsible for:

- ensuring that this policy is brought to the attention of all Colleagues in the Home and implemented in full
- regularly monitoring compliance by means of spot checks of Colleagues knowledge of the complaints procedure and relevant records
- ensuring complaints are managed as required, recorded as a complaint on Radar and discussed with the Divisional Director, Quality Manager, and the Head of Quality and Compliance
- promptly resolving any concerns indicated by complaints and ensuring that relevant investigations, corrective actions and correspondence with the complainant are carried out promptly and as required.

### 5 **Complaints policy – procedures**

#### 5.1 Making the complaints process known

5.1.1 Any person must be able to complain to any member of Advinia Colleagues. To facilitate this, the Care Home Manager will provide and display relevant information as outlined below.

5.1.2 The Care Home Manager will ensure that all Residents are provided with a copy of Advinia's complaints leaflet (*ACM32a*) on first admission, including people admitted for respite care. They will also explain to Residents how to complain.

5.1.3 The leaflet will be provided in appropriate languages and formats, and with any communication support required, to meet the needs of the people using the service (*ref Accessible Communications policy, ACM94*).

5.1.4 The Care Home Manager will at all times display 'How to complain if you are not happy' (*ACM32b (England) or ACM32c (Scotland)*) prominently within the Home along with a list of external organisations to whom people may wish to refer a complaint (*ACM32d*) once the internal process is completed. This display, plus the steps we take to make our complaints process known, ensure

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that people are able to make a verbal or written complaint to any member of Colleagues, and that we comply with legislative requirements.

**5.1.5** When a complaint is received the Care Home Manager will:

- offer and provide the level of support needed to help a Resident make a complaint. This may be through advocates, interpreter services and any other support needed, including any communication support
- ensure that complainants are not discriminated against or victimized and that the Resident's care and treatment is not affected
- consult their Divisional Director if an anonymous complaint is received, to decide whether it should be investigated. The issues raised should be reviewed in case there are any lessons to be learned or managerial action required
- refer any Colleague raising concerns about their terms and conditions to the appropriate HR policies and procedures.
- Add the complaint details as a new event to Radar. Select record new event from the menu on radar, then select event type as complaint, then follow the work flows created.

## **5.2** Involving relatives and maintaining confidentiality

**5.2.1** Residents, carers and relatives are at liberty to make complaints about the Home as individuals in their own right.

**5.2.2** If the person raising the complaint is not a Resident and the Resident has capacity and they do not wish concerns relating to them to be investigated, (*ref Consent policy (ACM79)*) the Care Home Manager will:

- inform the complainant that the complaint cannot be investigated
- clearly explain the rationale for this decision
- make Colleagues aware of this decision and the reasons.

**5.2.3** If the person raising the complaint is not a Resident and the Resident does not have capacity, (*ref MCA/DoLs policy (England) (ACM68E), Adults with Incapacity policy (Scotland) (ACM68S)*) or the Resident has died, the Care Home Manager, before proceeding with the complaint, will satisfy themselves that the person:

- had or has sufficient interest in the Resident's welfare
- and is a suitable person to act as a representative.

**5.2.4** In addition, in relation to adults with Incapacity in Scotland, the representative must have legal authority to make decisions and act on behalf of a person with impaired capacity and hold the Guardianship for the person (*ref Guardianship policy (Scotland) (ACM30)*).

**5.2.5** If, at any time, the Care Home Manager believes a representative does or did not have a sufficient interest in the person's welfare or is unsuitable to act as a representative, they will notify that person in writing, stating their reasons and will not progress the complaint.

**5.2.6** When complainants do not wish to identify themselves, the Care Home Manager must still follow the complaints process as far as possible.

**5.2.7** Advinia will always maintain Residents' confidentiality, unless the matter needs to be reported to the safeguarding authorities (*ref Safeguarding policy (ACM37E), Protection of Vulnerable Adults policy (ACM37S)*).

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- 5.3**            Recognizing, recording and responding to compliments and complaints
- 5.3.1**        When Colleagues receive verbal or written praise about their approach or the Care Home more generally, they will verbally thank the person concerned, inform the person in charge of the shift and record what the person said in:
- the Resident's daily notes
  - As an event on Radar, select report new event, then select compliment and follow the workflow.
- 5.3.2**        Unless they are anonymous, all complaints, whether written or verbal must be acknowledged. Colleagues will immediately verbally acknowledge the complaint, respond in an open and transparent way, listen carefully, verbally apologise to the person concerned where appropriate and resolve the issue if they can.
- 5.3.3**        Whilst the Colleague, the Care Home Manager and the Investigator should apologise to the complainant, where relevant, **no Colleagues must make any statement accepting responsibility or admitting liability until an investigation, which may involve the Insurer, has been completed and a conclusion reached.**
- 5.3.4**        Where issues have been immediately resolved, the Colleagues will:
- inform the person in charge of the shift
  - record in the Resident's daily notes the concern and how it was resolved.
- 5.3.5**        In the small proportion of cases where a Resident or other person expresses dissatisfaction with something which cannot be immediately resolved, Colleagues will regard this as a complaint, whether verbal or written. They will respond in an open and transparent way, listen carefully, verbally apologise to the person concerned where relevant and tell them they will record the matter as a complaint and we will get back to them. The Colleague will:
- inform the person in charge of the shift
  - record the complaint in the Resident's daily notes and that they have referred this to the Care Home Manager
  - record the complaint as an event on Radar. The details will include:
    - the name of the complainant
    - the subject matter of the complaint
    - the date of the complaint.
- 5.3.6**        The Care Home Manager, or person in charge in their absence, will review the Home's Complaints recorded on Radar to ensure they are aware of any complaints for resolution. Within three days of a complaint being made they will:
- send a written response summarizing the complaint, including the details at 5.3.6,
  - discuss the matter with the person raising the complaint and seek to resolve it
  - make the person aware, if they are a Resident, that they may discuss anything relating to their treatment privately with a senior Colleague of their choice, the Regional Director
- 5.3.7**        Where the complaint received is about the Care Home Manager, after sending the acknowledgement above, the Manager will pass the complaint to the Divisional Director to deal with, who will investigate and respond to the complainant within 21 days.
- 5.3.8**        For all other complaints, in discussing this with the complainant, the Care Home Manager will:

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- listen carefully
- ask clarifying questions to ensure full understanding of the concern
- assess the level of seriousness – does the concern indicate that anyone is at risk? If so, consult the Divisional Director to consider if it is necessary to inform Safeguarding Adults / Support and Protection, the police and the regulator (*ref Safeguarding policy (ACM37E), Protection of Vulnerable Adults policy (Scotland) (ACM37S), Regulatory Notifications policy (ACM80E/S)*)
- manage the complaint in line with the wishes and agreement of the complainant wherever possible
- agree the issue(s) of concern and what would be a satisfactory outcome
- have regard to confidentiality (*ref Data Breach policy (DP14)*) if, for example:
  - family are raising a concern about a family member
  - or a Resident does not want their family to be involved / informed (see 5.2)
- offer the complainant options to resolve the concern, such as:
  - offering to contact Colleagues to gain more information in order to resolve the problem
  - offering to meet further to discuss concerns
  - explaining that a thorough investigation will be carried out
  - providing information on local advocacy agencies
- explain to the complainant, and those about whom complaints are made, that they will be kept informed of the status of their complaint and its investigation and advised of any changes made as a result. They will also be given information on the timescales the Company expects Care Home Managers to work to (see 5.4 and Appendix 1)
- take any corrective action without delay which the complaint has highlighted is required
- ascertain, on conclusion, if the complainant is satisfied with the outcome or, if they remain dissatisfied:
  - discuss whether there may be further options for exploration
  - explain how the complainant can take action, providing the Complaints leaflet (*ACM32a*) which explains the Company's procedures the Care Home must follow and when complaints will be escalated to other appropriate bodies.

**5.3.10** The Care Home Manager will update the Complaints recorded on Radar and ensure it includes all the required details, ie:

- date complaint received
- issues raised
- action taken
- outcome of the investigation
- how the service informed the complainant about the outcome
- whether the complaint is now resolved and closed
- if it is not resolved, a record of any further action to be taken
- whether the matter triggered the Duty of Candour (see 5.5).

**5.3.11** At Company level, the Head of Quality and Compliance will ensure that a record is maintained of

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all complaints, outcomes and actions taken in response, and that, where no action is taken, the reasons for this are recorded. This will be by means of reviewing recorded events on Radar.

5.3.12 The recorded complaints on Radar will enable:

- Company-wide learning at monthly Quality and Governance meetings
- a Company response to any request made by CQC or CI for a summary of complaints made, responses and any further correspondence with complaints. For CQC, this must be supplied within 28 days of any such request.

#### 5.4 Timescales

5.4.1 A complaint must normally be made within twelve months of the date of the event giving rise to the concern, or within twelve months of becoming aware of the event.

5.4.2 However, the Care Home manager and/or the Head of Quality and Compliance may investigate a complaint received after this time period:

- if they believe that the complainant had good reasons for not making the complaint within twelve months
- *and* it is still possible to investigate the complaint effectively.

5.4.3 The Care Home Manager (or, in their absence, the most senior person in charge of the Home) will take appropriate action *without delay* to respond to any failures identified by a complaint and investigate it. On receipt of a complaint they will, **within 12 hours**:

- immediately review the complaint to establish the level of investigation and immediate action required
- refer to the appropriate authorities for investigation, where required, such as professional regulators and/or safeguarding authorities (*ref Safeguarding (ACM37E), Protection of Vulnerable Adults (ACM37S) (Scotland)*).
- Add the complaint as a new event on Radar.
- refer immediately to the Head of Quality and Compliance, Divisional Director and Chief Operating Officer where a complaint indicates that a serious or criminal offence has been, or may have been, committed. They will then decide whether there is a need for the police to be informed.

and, **within 3 days**:

- respond to the complainant in writing, as outlined at 5.3.7 using the Complaint Acknowledgement template (*ACM32g*).

5.4.4 As soon as possible after this, and within 5 days of receipt of the complaint, the Care Home Manager will:

- speak to the complainant as outlined at 5.3.9
- start appropriate investigations to identify what might have caused the complaint and actions required to prevent similar complaints (*ref Root Cause Analysis procedure (ACM88)*).

5.4.5 The Care Home Manager will ensure that the investigation is concluded and a full response sent (see 5.7) to the complainant within a further 16 days, ie no more than 21 days from receipt of the complaint. They will also:

- include a complaints management questionnaire for the complainant (*ACM32i*)
- Upload a copy of the investigation report to Radar, in the complaints workflow for the recorded event.

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- Send a copy of the complaint response letter to the Divisional Director and the Quality Manager for authorisation prior to sending to the complainant.
- Upload a copy of the concluding response letter to Radar, in the complaints workflow for the recorded event. Both the Divisional Director and the Quality Manager can view these on Radar.
- All complaints activity and associated documented should be entered to radar for filing, and not kept with the Resident's support plan or daily notes (other than the first brief summary that a complaint was received).

**5.4.6** Where any exceptional circumstances mean that the investigation is still in progress, a letter explaining the reason for the delay will be sent to the complainant on or before day 21, with the dates the investigation is now expected to conclude and when the complainant will be written to.

**5.4.7** If the investigation continues further, the Care Home Manager will update the complainant in writing every 21 days using the Complaint template holding letter (ACM32h).

**5.4.8** Refer to Appendix 1 for a summary of the complaints process timescales.

**5.4.9** Managers of Care Homes should vary these timescales where the complaint triggers the Duty of Candour and follow instead the steps and timescales specified by the *Duty of Candour policy* (ACM78) where this applies.

## **5.5** Duty of Candour

**5.5.1** The duty of candour broadly refers to the principle of being open and transparent, which the Company expects of all Colleagues at all times.

**5.5.2** More formally, specific duties are set out in legislation and apply to:

- individual professionals such as doctors and nurses
- organisations, such as the Company and our Care Homes in England.

**5.5.3** In the latter case, Care Home Managers must carry out the steps specified in law in Regulation 20 of the Health and Social Care Act when a notifiable safety incident has occurred, including any connected with a complaint. These steps direct Managers how and when to: inform the person concerned of such an incident, provide reasonable support when doing so, an apology and full information, and record such correspondence. Records must demonstrate that required timescales have been met (*ref Duty of Candour policy* (ACM78)).

## **5.6** Investigations

**5.6.1** The Care Home Manager, or in their absence, the person in charge of the Care Home, will determine within 12 hours of the complaint the level of investigation required and the person who will lead on this. This will most often be the Manager but can be delegated to a person with the requisite skills and competence (see 6.0). The investigation will start no later than 5 days from receipt of the complaint and will be concluded within 16 days, ie within 21 days of receipt of the complaint.

**5.6.2** The discussion between the investigator and the complainant is a pivotal part of the management of the complaint. The place / format of the conversation and the time it takes place will be convenient for the complainant. This may be by phone, a meeting in the Home or in the complainant's own home and may need to be outside normal working hours. Advinia's commitment to flexible working practices should enable this to occur.

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- 5.6.3** The investigator should:
- be open, transparent and non-defensive
  - demonstrate a willingness to listen and resolve the concerns wherever possible
  - communicate Advinia's desire to continuously improve, learn lessons wherever possible and gain feedback
  - agree with the complainant the method of investigation and timescale for response, within those specified above (section 5.4 and Appendix 1)
  - explore / negotiate desired outcomes.
- 5.6.4** Following this, the investigator will:
- agree an investigation plan with the Care Home Manager (*ref Root Cause Analysis procedure (ACM88)*)
  - contact members(s) of Colleagues involved in the complaint and show them the letter of complaint, or at least those sections which relate to them.
  - obtain statements from relevant Colleagues
  - make notes of any interviews they have with Colleagues, gaining Colleague signatures that they agree that the notes are accurate
  - review, where appropriate, relevant care records, taking copies as appropriate, such as: pertinent medical investigations, referrals, medication charts, observation records, risk assessments, support plans and communication sheets
  - seek advice if necessary from relevant Company experts, such as the Head of Quality and Compliance, Divisional Director or HR Manager. This advice should be documented and signed by those giving it. It may lead to disciplinary procedures
  - ensure all communication related to the investigation is documented, dated and signed.
- 5.6.5** The Investigator will write the report, drawing appropriate conclusions and clearly identifying lessons learned.
- 5.6.6** The report will include an Appendix summarising the Care Home's adherence to Company policies and procedures and the associated regulations, as appropriate
- 5.6.7** The Care Home Manager will send a copy of the investigation report to the Divisional Director within 21 days of receipt of the complaint.
- 5.7** The concluding response letter
- 5.7.1** The response letter will be written at the same time as the investigation report, within 21 days of receipt of the complaint and in line with the timetable the investigator originally agreed with the complainant.
- 5.7.2** The letter will:
- summarise the nature and substance of the complaint
  - be comprehensive, open, honest and respectful
  - be clear, written in plain English
  - outline the investigation and conclusions drawn
  - apologise where appropriate and explain if shortcomings have been identified
  - explain action taken or planned actions to improve care or the performance of other services
  - provide contact details for the relevant Ombudsman (ACM32d)

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- be signed by the Home Manager
- maintain confidentiality by using and sharing a Resident's identifiable information only when necessary
- be copied to Divisional Director

**5.7.3** To help the Company to learn about complainants' experience of our Homes, a copy of Advinia's Complaints Management Questionnaire (ACM32i) with a pre-paid return envelope will be included with the concluding response letter unless:

- the complainant has contacted the Parliamentary Health Ombudsman
- the complaint is still under investigation.

## **5.8** Appeals and adjudication

**5.8.1** Where a complaint is not resolved at Stage one: the Care Home Level, this may progress to Stage two: the Regional level. If this is not successful, the complainant may wish to take their complaint to an independent body.

**5.8.2** To progress the complaint to Stage two, or beyond, the Care Home Manager will ensure that the Resident is fully supported, where appropriate, to do so. This may include providing and/or reference to:

- accessible communication and/or communication support (*ref Accessible Communications policy, (ACM94)*)
- the Resident's advocate (*ref Advocacy policy, (ACM71)*)
- interpreter services
- the Care Inspectorate (Scotland) (ACM32d)
- the Ombudsmen for England or Scotland (ACM32d).

*Stage two: Divisional Level - Internal Appeal (two levels)*

**5.8.3** A complainant who remains dissatisfied on receipt of the Care Home Manager's concluding response letter will be offered the opportunity to refer their complaint to the Divisional Director, within 21 days of the date of that letter.

**5.8.4** If the Divisional Director has been involved prior to this stage however, the matter will be escalated instead to the Regional Quality and Compliance Manager or Head of Quality and Compliance.

**5.8.5** The Divisional Director (or Quality manager) will acknowledge receipt of the complaint within three working days advising that it is under review.

**5.8.6** They will then review all aspects of the complaint, conduct further investigations where necessary, and respond within 21 days with a concluding response letter (ACM32f) and complaints management questionnaire (ACM32i) by either:

- confirming the findings and actions taken by the Home Manager
- or reaching a separate conclusion as to the appropriate outcome.

**5.8.7** Where the complainant is dissatisfied with this decision, they will be offered the opportunity to refer their complaint to the Chief Operating Officer or Head of Quality and Compliance, within 21 days of notification of the Divisional Director's decision.

**5.8.8** If the Quality and Compliance Manager or Head of Quality and Compliance have been involved prior to this stage however, the matter will be escalated instead to the Chief Operating Officer.

**5.8.9** The Quality and Compliance Manager, Head of Quality and Compliance (or Chief Operating

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Officer) will acknowledge receipt of the complaint within three working days advising that it is under review.

**5.8.10** They will then review all aspects of the complaint, conduct further investigations where necessary, and respond within 21 days with a concluding response letter (ACM32f) and complaints management questionnaire (ACM32i) by either:

- confirming the findings and actions taken thus far
- or reaching a separate conclusion as to the appropriate outcome.

**5.8.11** Where the complainant is dissatisfied with this decision, they will be informed of their right to refer the matter externally to the relevant Ombudsman for either England or Scotland (see below). The addresses of the Ombudsmen and the regulators will be supplied to the complainant (ACM32d).

**5.8.12** At each stage of the appeal process, the person leading on the investigation and correspondence at that time will ensure that the event is updated on Radar.

#### *Independent External Adjudication*

**5.8.11** Complaints may be referred by complainants to the relevant Ombudsman (Table 1) when they are not satisfied with the results of Advinia's internal processes. Colleagues should be aware that internal processes must be exhausted before this route can be taken.

**5.8.12** The complainant should write to the appropriate Ombudsman, with sufficient details of the complaint, accompanied by copies of any relevant documents.

**5.8.13** The Care Home Manager must offer all relevant support a Resident may need to contact the Ombudsman, in line with 5.8.2 above.

**5.8.14** The Care Home Manager and Advinia's senior management must co-operate in full and without delay with any independent review or process deemed to be necessary.

Table 1: Ombudsmen

|             | <b>Scotland</b>                                                                     | <b>England</b>                                                                                  | <b>England</b>                                                      |
|-------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
|             | Local Authority funded Residents                                                    | NHS funded Residents                                                                            | Private and Local Authority funded Residents                        |
|             | <b>Scottish Public Services Ombudsman (SPSO)</b>                                    | <b>The Parliamentary and Health Service Ombudsman</b>                                           | <b>The Local Government Ombudsman</b>                               |
| Advice Line | 0800 377 7330                                                                       | 0345 015 4033                                                                                   | 0300 061 0614                                                       |
| Online      | <a href="http://www.spsso.org.uk">www.spsso.org.uk</a>                              | <a href="http://www.ombudsman.org.uk">www.ombudsman.org.uk</a>                                  | <a href="http://www.lgo.org.uk">www.lgo.org.uk</a>                  |
| In person   | Scottish Public Services Ombudsman (SPSO)<br>99 McDonald Rd<br>Edinburgh<br>EH7 4NS | The Parliamentary and Health Service Ombudsman<br>Millbank Tower<br>Millbank<br>London SW1P 4QP | The Local Government Ombudsman<br>PO Box 771<br>Coventry<br>CV4 0EH |
| By post     | Scottish Public Services Ombudsman<br>FREEPOST SPSO<br>(No other details needed)    | As above                                                                                        | As above                                                            |
| Fax         | 0800 377 7331                                                                       | 0300 061 4000                                                                                   | 024 7682 0001                                                       |

|  |  |  |  |
|--|--|--|--|
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## 5.9 Healthcare Regulators

**5.9.1** A complainant may at any time contact the Care Quality Commission England or the Care Inspectorate Scotland (Table 2). The regulators' role is to check that Residents are well cared for, listened to and know their rights.

**5.9.2** Colleagues should make Residents and others aware however that the Care Quality Commission does not investigate individual complaints.

Table 2: Regulators

| Scotland                                                                                                                                                                                                                                                                                                             | England                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Care Inspectorate Scotland</b><br/> Compass House<br/> 11 Riverside Drive<br/> Dundee, DD1 4NY<br/> Tel: 0345 600 9527<br/> Email: <a href="mailto:enquiries@careinspectorate.com">enquiries@careinspectorate.com</a><br/> Website: <a href="http://www.careinspectorate.com">www.careinspectorate.com</a></p> | <p><b>Care Quality Commission</b><br/> Citygate, Gallowgate<br/> Newcastle upon Tyne, NE1 4PA<br/> Tel: 03000 6161 61<br/> Fax: 03000 616171<br/> Email: <a href="mailto:enquiries@cqc.org.uk">enquiries@cqc.org.uk</a><br/> Website: <a href="http://www.cqc.org.uk">www.cqc.org.uk</a></p> |

## 5.10 Habitual or vexatious complainants

**5.10.1** Habitual and/or vexatious complainants can present significant challenges. A complainant may make a large number of complaints without merit or they may pursue a complaint where the Company's procedure has been fully and properly completed and exhausted. There are times when there is nothing further which can reasonably be done to assist the person or to rectify a real or perceived problem.

**5.10.2** In determining arrangements for handling such complainants the Care Home Manager should:

- ensure that the complaints procedure has been correctly implemented and that no material element of a complaint has been overlooked or inadequately addressed, and that records evidence this
- inform the Head of Quality and Compliance and the Chief Operating Officer who will assess and review the procedure undertaken. One or both may take further action to inform the complainant that Advinia considers the complaint to be of a vexatious nature.

## 5.11 Lessons learned

**5.11.1** When investigations into complaints result in lessons learned, the Care Home Manager will ensure that an action plan is created. Divisional Directors will monitor its implementation.

**5.11.2** These lessons learned contribute to Advinia's drive for continuous improvement and are shared appropriately by the Care Home Manager:

- within the Care Home
- with other Care Homes via monthly governance meetings, bulletins and feedback from the Quality and Governance Committee
- with external stakeholders as appropriate.

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## 5.12 Monitoring and Audit

### 5.12.1 Regular, internal quality inspections will review:

- that information on the complaints procedure is displayed and accessible to Residents, in accessible formats where relevant
- that Colleagues know how to recognize a complaint and what to do if they receive one
- complaints received, the quality, timeliness and completeness of responses and records made
- that the Duty of Candour has been fully adhered to in Care Homes in England, where this applies
- changes have been put in place in line with action plans following complaints
- that the Care Home Manager regularly reviews complaints for trends.

### 5.12.2 The Care Home Manager will monitor compliance with this policy by undertaking regular:

- spot checks of Colleagues knowledge of the complaints procedure
- review of the recorded complaints for the home on Radar for trends or areas of risk to be addressed.

### 5.12.3 The Head of Quality and Compliance will:

- regularly review Company-wide complaints received by Care Homes via review of recorded events on Radar and monthly Governance and Quality meetings
- ensure that lessons learned are shared between Care Homes via monthly Governance and Quality meetings and bulletins.

## 6 Training and other resource implications

6.1 All Colleagues must know how to respond when they receive a complaint. To enable this, inductions and supervisions will discuss Colleague's awareness of the complaints procedure, how they should respond, and that complainants must not be subjected to discrimination.

6.2 The Care Home Manager will ensure that the Colleagues they assign to carry out an investigation into a complaint have the right level of knowledge and skill, understand the complaints procedure and are knowledgeable about current related guidance.

6.3 The Care Home Manager will encourage all Colleagues to seek help when they feel they are being asked to do something that they are not prepared or trained for.

### 6.4 Understanding of Advinia's Complaints policy

6.5 All Colleagues are required to read this policy. They will be asked to provide evidence, in the form of a signature, to confirm their understanding and acceptance of the contents.

6.6 Continued understanding of the Complaints policy and procedures will be explored and confirmed during individual and group supervision sessions.

## 7. Local Authority Complaints contact details

Homes will have different Local Authority complaints contacts. Home Managers should add the Home name and Local Authority Complaint contact details below.

**Home:** *Home Manager to add in these details*

**Local Authority:** *Home Manager to add in these details*

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Local Authority Complaints contact details: *Home Manager to add in these contact details*

## 8. Advocacy

All staff are expected to protect and uphold the rights of Residents at all times. This may involve facilitating access to local advocacy services, particularly if the Resident lacks the capacity to seek representation for themselves. This will be in their best interests and be the least restrictive of their basic rights and freedoms.

Homes will have different Local Authority Advocacy contacts. Home Managers should add the Home name and Local Authority Advocacy contact details below.

Home: *Home Manager to add in these details*

Local Authority: *Home Manager to add in these details*

Local Authority Advocacy contact details: *Home Manager to add in these contact details*

|                     |                          |                |
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## Appendix 1: Complaints process and timescales

| On or before Day                                                        | Task                                                                                                                                                                                                                                                                                                                                                                | Forms                 | Person responsible                                                                                             |
|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|----------------------------------------------------------------------------------------------------------------|
| 0                                                                       | <ul style="list-style-type: none"> <li>Complaint received and briefly recorded in Resident's daily notes and recorded as an event on Radar.</li> </ul>                                                                                                                                                                                                              | ACM32f                | Colleagues                                                                                                     |
| 1<br>Within 12 hours                                                    | <ul style="list-style-type: none"> <li>Review complaint to determine level of investigation, who will lead, and any immediate action required</li> <li>Refer to Safeguarding / regulators</li> <li>Refer to Regional Director / Head of Quality &amp; Compliance / Chief Operating Officer if relates to a serious or criminal offence</li> </ul>                   |                       | Care Home Manager                                                                                              |
| 3                                                                       | <ul style="list-style-type: none"> <li>Write to complainant to acknowledge complaint</li> <li>If the complaint is about the Care Home Manager, refer this to the Regional Director to manage</li> </ul>                                                                                                                                                             | ACM32g                | Care Home Manager                                                                                              |
| 5                                                                       | <ul style="list-style-type: none"> <li>Speak to the complainant</li> </ul>                                                                                                                                                                                                                                                                                          |                       | Care Home Manager                                                                                              |
| 5                                                                       | <ul style="list-style-type: none"> <li>Start investigation</li> </ul>                                                                                                                                                                                                                                                                                               | RCA procedure (ACM88) | Investigator designated by Care Home Manager                                                                   |
| 21                                                                      | <ul style="list-style-type: none"> <li>Conclude investigation, write report and concluding response letter and upload onto Radar.</li> <li>Send to complainant with complaints management questionnaire &amp; prepaid envelope</li> <li>Or, exceptionally, write to complainant explaining reason for delay and date the investigation will be concluded</li> </ul> | ACM32i<br>ACM32h      | Investigator or Regional Director if complaint is about the Care Home Manager                                  |
| 21                                                                      | <ul style="list-style-type: none"> <li>Send a copy of report and concluding response letter to Regional Director and Quality Manager</li> <li>Update the recorded event on Radar.</li> </ul>                                                                                                                                                                        | ACM32f                | Care Home Manager                                                                                              |
|                                                                         | <ul style="list-style-type: none"> <li>If the investigation continues, update the complainant every 21 days after that</li> </ul>                                                                                                                                                                                                                                   | ACM32h                | Care Home Manager                                                                                              |
| No of days after the concluding response letter sent to the complainant |                                                                                                                                                                                                                                                                                                                                                                     |                       |                                                                                                                |
| 21                                                                      | <ul style="list-style-type: none"> <li>Within 21 days, complainant can refer to Regional Director if they remain dissatisfied, or to Quality Manager / Head of Quality and Compliance if Regional Director previously involved</li> </ul>                                                                                                                           |                       | Complainant                                                                                                    |
| +3                                                                      | <ul style="list-style-type: none"> <li>Within 3 days of receipt of the internal appeal, write to complainant to acknowledge complaint being investigated at Regional level</li> </ul>                                                                                                                                                                               | ACM32g                | Regional Director or Quality Manager / Head of Quality and Compliance if Regional Director previously involved |
| +21                                                                     | <ul style="list-style-type: none"> <li>Within 21 days of receipt of internal appeal, send concluding response letter and complaints management questionnaire to complainant</li> <li>Ensure the complaints on Radar is updated.</li> </ul>                                                                                                                          | ACM32i<br>ACM32f      | As above                                                                                                       |
| +21                                                                     | <ul style="list-style-type: none"> <li>Within 21 days of the 2<sup>nd</sup> concluding response letter, complainant can refer to Regional Quality &amp; Compliance Manager or Head of Quality and compliance within a further 21 days if they remain dissatisfied, or to Chief Operating Officer if either were previously involved</li> </ul>                      |                       | Complainant                                                                                                    |

|     |                                                                                                                                                                                                                                                             |                  |                                                                                                                         |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------------------------------------------------------------------------------------------------------------------|
| +3  | <ul style="list-style-type: none"> <li>Within 3 days of receipt of the 2<sup>nd</sup> internal appeal, write to complainant to acknowledge complaint being investigated by a further Regional Colleagues</li> </ul>                                         | ACM32g           | Quality Manager / Head of Quality and Compliance or, if they have been previously involved, the Chief Operating Officer |
| +21 | <ul style="list-style-type: none"> <li>Within 21 days of receipt of the 2<sup>nd</sup> internal appeal, send concluding response letter and complaints management questionnaire to complainant</li> <li>Ensure the complaint on Radar is updated</li> </ul> | ACM32i<br>ACM32f | Quality Manager / Head of Quality and Compliance or, if they have been previously involved, the Chief Operating Officer |
|     | <ul style="list-style-type: none"> <li>If complainant remains dissatisfied and wishes to refer to the Ombudsman, provide appropriate support to do so</li> <li>Provide contact details of Ombudsmen and regulators</li> </ul>                               | ACM32d           | Care Home Manager                                                                                                       |
|     | <ul style="list-style-type: none"> <li>On completion of all investigations, write action plan of changes required to implement lessons learned</li> </ul>                                                                                                   |                  | Care Home manager                                                                                                       |

*Where a complaint is about a notifiable safety incident which triggers the Duty of Candour the steps, timelines and records specified by the Duty of Candour policy (ACM78) should be followed.*

## Appendix 2: Equality Impact Assessment Form

*(When considering the following questions you must consider if there is an equality impact upon the following characteristic groups; Race (including Gypsy and Traveller), Disability (e.g. hearing loop, signage, wheelchair access etc.), General (men and women), Transgender (gender identity and reassignment), Lesbian, gay and bisexual, Age (this includes older people, children and young adults – people of all groups), faith groups/belief or no belief, pregnant women or women who are breast feeding, people who are married or in civil partnerships)*

### Part 1

| Part 1 must be completed for all policies                                                                                                                              | Yes | No | Provide Information to mitigate/provide rationale                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1) Could the Policy, impact negatively on any of the protected characteristic groups?                                                                                  |     | X  | If YES provide information to mitigate/rationale                                                                                                                     |
| 2) Is the Policy, accessible and inclusive of people from the characteristic groups?                                                                                   | X   |    | If YES provide information to mitigate/rationale                                                                                                                     |
| 3) Have you engaged or consulted individuals, groups / communities from the protected characteristic groups whilst planning and developing this Policy?                | X   |    | If YES provide information to mitigate/rationale                                                                                                                     |
| 4) Have you used equality monitoring data in the formulation and development of this Policy?                                                                           | X   |    | If YES provide information to mitigate/rationale                                                                                                                     |
| 5) As part of this equality analysis have any training needs or service needs been identified?                                                                         |     | X  | If YES provide information to mitigate/rationale                                                                                                                     |
| 6) Please indicate what sources of information have been considered regarding the formulation of this Policy.                                                          | X   |    | Mental Capacity Act (2005)<br>Deprivation of Liberty Safeguards Code of Practice<br>Advinia Deprivation of Liberty Policy<br>Safeguarding Policy and Local Documents |
| 7) If responses fall within shaded boxes (excluding N/A responses) this Policy will require a full Equality Analysis Assessment. If YES, please complete part 2 below. | *   |    |                                                                                                                                                                      |

## Part 2

### Part 2 - only to be completed if Q7 in Part 1 is answered Yes

**Full Equality Analysis Assessment** – You must complete a full equality analysis assessment if in your initial analysis you identify any negative impact on one or more of the protected characteristic groups. Negative impact should be reduced or removed completed. **Please note unlawful, discriminatory impacts must be removed completely.** Please refer to guidance for further information.

Use this form to create a SMART action plan to evidence what needs to be addressed and what you have achieved. Please attach any evidence of the work you do in relation to this action plan.

#### SMART Objectives

**Specific** – Objectives should specify what they want to achieve.

**Measurable** – You should be able to measure whether you are meeting the objectives or not.

**Achievable** – Are the objectives you set, achievable and attainable?

**Realistic** – Can you realistically achieve the objectives with the resources you have?

**Time** – When do you want to achieve the set objectives?

| Equality Area                        | Aim(s)and action(s) required to support the outcome of the initial equality analysis | Evidence used (including engagement/consultation) | Target date | Responsible/Lead Person |
|--------------------------------------|--------------------------------------------------------------------------------------|---------------------------------------------------|-------------|-------------------------|
| Gender                               |                                                                                      |                                                   |             |                         |
| Disability                           |                                                                                      |                                                   |             |                         |
| Race and Ethnicity                   |                                                                                      |                                                   |             |                         |
| Sexual Orientation                   |                                                                                      |                                                   |             |                         |
| Religion or Belief                   |                                                                                      |                                                   |             |                         |
| Age                                  |                                                                                      |                                                   |             |                         |
| Gender reassignment                  |                                                                                      |                                                   |             |                         |
| Marriage or Civil Partnership        |                                                                                      |                                                   |             |                         |
| Pregnancy and Maternity              |                                                                                      |                                                   |             |                         |
| Human Rights                         |                                                                                      |                                                   |             |                         |
| Valuing Diversity – other            |                                                                                      |                                                   |             |                         |
| Government requirements              |                                                                                      |                                                   |             |                         |
| Department of Health requirements    |                                                                                      |                                                   |             |                         |
| Care Quality Commission Requirements |                                                                                      |                                                   |             |                         |
| Lesbian, Gay and Bisexual            |                                                                                      |                                                   |             |                         |