



Local Government &
Social Care
OMBUDSMAN

INFORMATION SHARING AGREEMENT

Information Sharing Agreement

A memorandum of understanding (MOU) exists between the Local Government and Social Care Ombudsman (LGSCO) and the Care Quality Commission (CQC) describing the framework for our working relationship (Appendix 1).

Part of the working relationship involves the sharing of information between the two organisations. In a crowded Adult Social Care (ASC) landscape it is imperative that the two organisations are seen to be working together to protect vulnerable adults and to improve the quality of care delivered by registered providers.

This agreement sets out how information is shared in the following ways:

- CQC/LGSCO: enhancing the customer experience (Appendix 2) outlines how calls made to either organisation is seamlessly transferred to the correct destination.
- Ombudsman alerts to CQC (Appendix 3) outlines a flowchart illustrating how the Ombudsman's investigators pass on information to CQC where they have determined that there has been a breach in CQC fundamental standards. (There is a risk of this being the sole judgement of the Ombudsman investigator and this agreement provides the opportunity of sharing a wider set of intelligence including from non-upheld complaints being shared which may assist CQC in identifying themes when preparing for inspections).
- Sharing information from all Ombudsman ASC decisions about services provided by registered providers, including where a provider is acting on behalf of a council
- Sharing good practice in complaint handling by signposting to the Ombudsman's website.
- Sharing information about the movement of registered providers (Appendix 4).

The final section of the agreement addresses how progress will be monitored.

Sharing information from decisions

This section outlines how information relating to complaints completed by the Ombudsman can be best shared with and used by CQC to identify risk, inform inspections and highlight national and regional patterns. Historical cases of poor care have shown the importance of how providers learn from complaints in terms of what this indicates about the culture of learning and improvement in the organisation. Themes emerging from the findings of complaints and the extent of action taken can be an important indicator of poor care in specific areas.

Sharing information from the Ombudsman website

The Ombudsman publishes all its decisions on its website www.lgo.org.uk. Decisions are uploaded three months after they have been issued to the complainant and body in jurisdiction (BinJ). This time lag is to allow for the possibility of a judicial review being lodged. CQC can search the Ombudsman website at any time to access information to better understand findings and link to other data sources.

Sharing information from monthly monitoring

At the beginning of every month information held by the Ombudsman relating to complaints about CQC regulated providers and how they have been handled is shared with CQC. The Ombudsman produces a spreadsheet with the following headings:

LGO case ID
Body/organisation
CQC ID
Location
Location CQC ID
Sub category
Received date
Decision date
Overall decision detail.

This enables information on all ASC complaints received during the month to be shared, including decisions about services provided directly by a registered provider and where a provider is acting on behalf of a council. The information also includes decisions about cases that are investigated by the joint working team of the LGSCO and the PHSO. The monthly data includes complaints that have been signposted on and those which are premature e.g. have not been through the council or care provider's complaints process. It also includes complaints that have been fully investigated. Where the outcome is a finding of fault the Ombudsman also sends CQC the final decision. This means information is being shared quickly and before the decision goes onto the website. This information is used by CQC in several ways including:

1. by their Qualitative Intelligence team who analyse cases for themes and risk factors to add to the risk profile for inspectors; and
2. by their ASC Monitoring Analytics team who review the data to evaluate upheld cases against other factors
3. In the Place Review Programme where CQC is undertaking a programme of local system reviews of health and social care in 20 local authority areas.

This information feeds into intelligence for CQC inspectors.

Good practice in complaint handling

The Ombudsman has a role in fostering good complaint handling. The Ombudsman website has information aimed at Adult Social Care providers called Resources for Providers, it includes:

1. a template complaints procedure - this is a ready written document that providers can adapt for their own use;
2. a complaint management check list where providers can check whether their complaint procedure is up-to-date and covers everything that it should consider;
3. a signpost to the Ombudsman and CQC - appropriate paragraphs that providers can insert into their complaint procedure to advise people of their right to access the Ombudsman or the regulator.

CQC have provided an electronic link to inspectors with a signpost for care providers to the [LGSCO web pages](#) to assist in effective complaint handling.

MONITORING

Frequency of Meetings

The Information Sharing Agreement (ISA) group will meet quarterly and approximately a month before the Chief Executive of CQC and the Ombudsman meet.

Membership

From CQC

- Paul Durham (CQC - Strategy Team)
- Representatives from CQC Intelligence Teams
- Representative from CQC's NCSC
- Provide feedback from CQC Inspection, Policy and Registration functions

From the Ombudsman

- DC - LGSCO - Assistant Ombudsman
- JB - LGSCO – Customer Service Manager

Monitoring the Business

Enhancing the Customer Experience

- As per Appendix 2 section 6.1 – each month both parties will exchange data about the number of transfers and signposts to each organisation and discuss the reasons for fluctuations in numbers.

Information on the website

- Use intelligence model as a data source to inform ASC Insight
- Feedback on themes
- Examples from the use of shared information as part of CQC monitoring an inspection
- Feedback on use of shared information used in the Place Review programme

Monthly information

- Report back on CQC's quantitative and qualitative use of the shared information
- Assess whether LGSCO inputting of provider location improves

Good practice in complaint handling

- Examine how many 'hits' on LGSCO provider web pages
- Feedback from CQC inspectors on their use of the shared information

Ombudsman alerts

- Ensure the Ombudsman has a mechanism to determine what information is sent to CQC about breaches and adverse findings notices, and review its effectiveness.

Sharing information about change of provider

- Quarterly information from Head of Registrations re number of contacts from the Ombudsman

A MEMORANDUM OF UNDERSTANDING BETWEEN THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN (THE OMBUDSMAN) AND THE CARE QUALITY COMMISSION (CQC) DESCRIBING THE FRAMEWORK FOR OUR WORKING RELATIONSHIP

1. PURPOSE AND SCOPE

- 1.1 This Memorandum sets out the framework for the working relationship between the Local Government and Social Care Ombudsman (The Ombudsman) and the Care Quality Commission (CQC) and is intended to inform our staff and the public about how our organisations relate to each other and work together. The Ombudsman and CQC recognise their respective statutory responsibilities and independence but will always seek to collaborate and co-operate where relevant and appropriate to do so in furthering their shared aim of securing high quality care.
- 1.2 This Memorandum cannot override the statutory duties and powers of either the Ombudsman or CQC, and is not enforceable in law. However, both organisations agree to adhere to the principles set out in this Memorandum and will show proper regard for each other's activities. There will be complete openness, transparency and honesty between CQC and the Ombudsman. The interests of people who use services will always be paramount.
- 1.3 This MoU will be effective for at least a twelve-month period commencing from the date of signature. The MoU will be supported by protocols and other documents not included here which set out in more detail operation considerations of how the Ombudsman and CQC will work together.

2. LEGISLATIVE FRAMEWORK AND CORE FUNCTIONS

- 2.1 The CQC is the regulator of health and adult social care in England. The CQC also protect the interests of vulnerable people, including those whose rights are restricted under the Mental Health Act.
- 2.2 The CQC's purpose is to make sure health and social care services provide people with safe, effective, compassionate, high-quality care and encourage care services to improve. The CQC's role is to monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety. The CQC publishes its findings including performance ratings to help people choose care.

- 2.3 The role of the Local Government and Social Care Ombudsman (The Ombudsman) is set out in the Local Government Act 1974. From 2009 the Ombudsman's role in providing a route to independent redress was extended to all privately funded social care. Since then the Ombudsman has been able to operate as the social care ombudsman dealing with unresolved complaints about any registered care service, whoever is using it and however it has been arranged or funded.

3. GENERAL PRINCIPLES UNDERPINNING OUR WORKING RELATIONSHIP

- 3.1 The Ombudsman and CQC agree that the following principles underpin our approach:
- We each make our own independent decisions;
 - We acknowledge each other's statutory responsibilities;
 - We agree the need to share information (in accordance with this Memorandum) to assist with effective regulation and complaint handling which promotes safety and high-quality adult social care services and remedies injustice;
 - We will work together to understand and align our data collection systems to support effective information-sharing and quality monitoring;
 - We will inform each other as soon as reasonably practicable of any matters that may require action or a response from the other;
 - Information will be shared in an agreed secure format and in a timely manner to a named contact;
 - We will be open and transparent in our dealings with each other, acknowledge each other's respective responsibilities and take these into account when working together;
 - We recognise the need to maintain public confidence in our two organisations;
 - All our meetings will have agreed actions which will be confirmed in writing.

4. INFORMATION SHARING

- 4.1 The Ombudsman and CQC share information with each other through planned activity and when there is a need to respond to emerging, urgent concerns.

- 4.2 The Ombudsman and CQC will continue to explore how best to improve and share useful information on a regular basis to ensure both organisations can carry out their roles effectively.

Information that Ombudsman will share with CQC

- 4.3 In relation to complaints about care services provided, or commissioned by local authorities, the Ombudsman can only share information for the purposes of an investigation or report. It can however publish and share all its complaint outcomes. In relation to complaints about private sector care, the Ombudsman has a statutory power to share information with CQC where it relates to its regulatory functions.
- 4.4 The Ombudsman will normally share information with CQC in accordance with the Information Sharing Agreement:
- i. where it is necessary to do so in assessing whether to investigate a complaint;
 - ii. where undertaking, or concluding an investigation depends on information provided by CQC;
 - iii. where a Final Decision or Report about an investigation has made recommendations to the adult social care provider or local authority and where the Ombudsman asks the provider or local authority to develop an action plan to address the failings and to seek CQC's assurance that the recommendation has been implemented;
 - iv. where the Ombudsman receives information during an investigation that is of such concern that it is considered likely to constitute evidence of abuse or neglect to a person in vulnerable circumstances; and
 - v. where the Ombudsman receive information that appears to indicate a breach of regulatory requirements.
- 4.5 The Ombudsman may also, from time to time, share general information (whilst protecting the privacy of persons affected by the complaint) about any identified trends or themes arising from casework. Where the numbers and type of complaints indicate potential concern about a provider's performance - or complaint handling more generally - the Ombudsman may decide to share this in broad terms with the CQC prior to any intended publication, for the wider benefit of timely improvement of services for people using adult social care.

How CQC will use the Ombudsman information

- 4.6 The CQC will use information provided by the Ombudsman to inform its regulatory processes by adding this information to other accumulated evidence it holds about the service to inform its monitoring process.
- 4.7 CQC will log any systemic recommendations for remedy and have systems in place to ensure that the organisations' action plans are received and logged to form part of the evidence for its inspection teams.
- 4.8 CQC will inform the Ombudsman of any subsequent regulatory activity, and what further action will be taken.
- 4.9 CQC will comply with the Ombudsman's statutory requirements regarding subsequent requests for disclosure of this information.¹

Information that CQC will share with the Ombudsman

- 4.10 CQC will share information about providers and any unresolved complaints with the Ombudsman to assist with their role as social care ombudsman. The detail is explained in the Information Sharing Agreement.
- 4.11 The Health & Social Care Act 2008 (Section 9 (1)) states that the Commission may, *'if it thinks it appropriate to do so, provide advice or assistance to another public authority for the purpose of the exercise by that authority of that authority's functions'*.
- 4.12 CQC will inform the Ombudsman of any investigation which CQC decides to carry out because of concerns about a registered provider providing adult social care. The information will be limited to the name of the body in question and the service area of concern. The Ombudsman will decide whether there is any information it holds which may legitimately be shared to inform that investigation.

¹ Information gathered for the purposes of an Ombudsman investigation is subject not only to the statutory requirement of privacy within the Health Service Commissioners Act 1993. It is also generally exempt from disclosure under the Freedom of Information Act by the operation of Section 44 of that Act. Generally, there is also exemption from release under the Data Protection Act by the operation of Section 31(4) where there is a likely prejudice to the Ombudsman's statutory function

- 4.13 CQC undertakes to inform and update the Ombudsman of any registered body/practitioner with conditions attached to its registration (and the nature of those conditions) relating to adult social care; and to do so, if this is practicable, prior to release into the public domain.
- 4.14 CQC will transfer and refer individual complainants to the Ombudsman.

5. WORKING ARRANGEMENTS

- 5.1 Both the Ombudsman and the CQC are committed to exploring ways to develop more effective and efficient working relationships to remedy injustice and promote quality and safety within their respective statutory remit.
- 5.2 The Ombudsman and the CQC will keep each other fully informed about developments in their services, approach and methodologies. The practical working arrangements are set out in the Information Sharing Agreement.
- 5.3 The Ombudsman and CQC will seek to ensure that they give each other adequate warning of and sufficient information about any planned announcements to the public that the other may need to know of, including sharing drafts of their proposals and publications, as early as possible where these have a direct impact for both.
- 5.4 The Ombudsman and CQC will hold strategic meetings at least annually to focus on:
- i. Organisational relationship
 - ii. High level policy strategy
 - iii. High risk casework
 - iv. Regulatory and quality landscape in health and social care

In attendance:

LGO: Michael King, Ombudsman and others to be determined by LGSCO

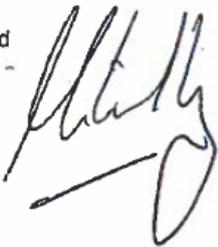
CQC: David Behan (Chief Executive) and others to be determined by CQC

5.5 The Ombudsman and CQC representatives will meet quarterly to:

Delivery of action agreed by Ombudsman and CQC CEO

- i. Overseeing the operational relationship between the Ombudsman and CQC including this MOU and the Information Sharing Agreement
- ii. Overseeing the strategic relationship between the Ombudsman and CQC
- iii. Initiation of joint project working
- iv. Sharing corporate information between organisations including matters such as:
 - High risk social care bodies;
 - Horizon scanning of key issues and organizations;
 - Development of the regulatory landscape and quality framework;
 - Reorganisation and changing roles within the sector and implication for regulatory activity, quality and complaints management;
 - Engagement and relationships with other regulators and Healthwatch England and Local Healthwatch.
- vi) Individual cases liaison between LGSCO and CQC on matters concerning an individual complaint about a registered body practitioner which is also subject to regulatory activity monitoring by CQC.

Signed

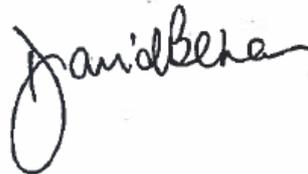


Name: Michael King
(Local Government and Social Care
Ombudsman)

Date:

27/11/17

Signed



Name: David Behan
(CQC)

Date:

27/11/17

CQC / LGSCO:

**Enhancing the Customer
Experience**



Local Government &
Social Care
OMBUDSMAN

Version Control

Date	Version	Details
January 2014	1.0	Document drafted and agreed
January 2015	2.0	Removed guidance about LGSCO premature complaints, reworded introduction, added flowcharts, added information sharing
May 2017	3.0	Removed requirement to exchange reference numbers. Amended flow charts. Amended CQC contact details.

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1 Introduction

The Local Government and Social Care Ombudsman and the Care Quality Commission both have the remit to consider certain complaints within the adult social care sector. LGSCO can consider individual adult social care complaints about private providers and councils, CQC are the independent regulator of health and adult social care in England.

The fundamental differences appear to be quite distinct. However, both continue to receive numerous contacts for the other organisation. Therefore, both organisations have agreed that they will work together to improve the transfer of queries between them.

This will add value to the customer experience by ensuring a more personalised service that better meets the needs of individuals and by making it easier for customers to access both services.

Also this will improve relationships between the two organisations and help to enhance their reputations within the care sector.

This document briefly describes the roles of each party and outlines the approach each organisation will take with regards to transferring customers to each other.

2 Local Government and Social Care Ombudsman

2.1 The Role of the LGSCO regarding Adult Social Care

The Ombudsman looks at complaints about councils and all types of social care services for adults in England.

LGSCO is a free service. It investigates complaints in a fair and independent way and it does not take sides. The LGSCO can consider individual complaints about things that have gone wrong in the way a service has been provided or about the way that a decision has affected a customer.

2.2 What can they look at?

The LGSCO can investigate:

- individual complaints regarding care arranged direct with a care provider, by:
 - someone paying with their own or family money
 - someone using money provided by a council
- individual complaints regarding care provided by a council. The care could be:
 - in a residential or nursing home
 - personal care at home
 - supported living services for someone with learning disabilities.

These complaints could relate to:

- poor-quality care
- fees and charges

- poor complaint handling
- delay
- assessments of need
- safeguarding/vulnerable adults

Please note that, the Ombudsman has no formal role in the handling of a safeguarding alert. It is for the council to act as the 'safeguarding lead'. The Ombudsman may consider individual complaints about how the council has handled its safeguarding role, or it may consider complaints that a care provider has failed to adequately protect an individual service user in their care.

Also note that the Ombudsman cannot consider complaints relating to employment issues within a council or a care home.

2.3 Who can complain?

Anyone affected by a council or care provider's actions can complain to them,

Including:

- The person using the care service
- Their nominated representative – or a suitable representative if the person is unable to nominate someone

3 Transferring Customers to the Ombudsman

3.1 Transferring phone calls

When a call is received and the caller wishes to raise an individual complaint with the Ombudsman, then CQC's Concerns Team will:

- Record the detail in the mandatory call logging script as in the business as usual process.
- Explain to the caller they now have a joint arrangement with the Local Government Ombudsman and Social Care and explain their role.
- Ask if they would like to be transferred for further information.
- Permission to share needs to be recorded with date and time in the call logging script.
- Warm transfer call to **LGSCO on 0300 061 0614**

3.2 Requesting a call back

If the live call cannot be transferred (due to high call volumes or waiting time to transfer to LGSCO has been longer than 1 minute), permission is required from the caller so that CQC can share their contact details with the LGSCO and arrange a call back. Permission to share needs to be recorded with date and time.

CQC Concerns Team will email intake@lgo.org.uk requesting that the caller be contacted. Due to email security reasons, the email must only include the name, contact details and the name of the provider.

Email Template

The following template is to be used to forward call back requests to the Ombudsman:

Good Morning/Good Afternoon XXXX,

CQC Reference:

The CQC Concerns team attempted to transfer a call to you today however this attempt was unsuccessful.

The caller has granted permission to share their information with you. Please therefore contact:

Name:

Contact number:

Service provider:

Kind regards

National Customer Service Centre Concerns Team (Mental Health Calls, Safeguarding & Whistleblowing) Care Quality Commission Citygate Gallowgate Newcastle Upon Tyne

NE1 4PA

External telephone: 03000616161

Statutory requests for information made under access to information legislation such as the Data Protection Act 1998 and the Freedom of Information Act 2000 should be sent to:

information.access@cqc.org.uk.

This is further explained in [Appendix 1](#).

4 Care Quality Commission

4.1 The Role of CQC

The Care Quality Commission (CQC) is the independent regulator of health care and adult social care services in England.

CQC monitors, inspects and regulates services to make sure they meet fundamental standards of quality and safety, and to publish what they find to help people choose care. However, the CQC's roles given by Parliament do not include dealing with individual complaints about providers' services.

5 Transferring Customers to CQC

5.1 Transferring phone calls

When a call is received by the Ombudsman and the caller wishes to raise a concern with CQC, the Ombudsman's Intake Team will:

- Explain to the caller they now have joint arrangement with the Care Quality Commission and explain their role.
- Ask if they would like to be transferred for further information.
- Transfer call to 03000 616 161, press option 1 for complaints about mental health and option 2 for all other complaints.
- Warm transfer the call to CQC's Concerns Team.
- The adviser records appropriate call outcome.
- If the Adviser is creating a case reference number they must also record the permission to share with dates and times.

5.2 Requesting a call back

If the live call cannot be transferred due to high call volumes or if the waiting time to transfer to CQC exceeds 30 seconds, permission is required from the caller so that the Ombudsman can share their contact details with CQC to arrange a call back. Permission to share needs to be recorded with date and time.

The Ombudsman's Intake Team will email concerns@cqc.org.uk requesting that the caller be contacted. Due to email security reasons, the email must only include the name, contact details and the name of the provider.

5.2.1 Email Template

The following template is to be used to forward call back requests to the CQC

Good Morning/Good Afternoon XXXX,

LGSCO Reference:

The Intake Team attempted to transfer a call to you today however this attempt was unsuccessful.

The caller has granted permission to share their information with you. Please therefore contact:

Name:

Contact number:

Service Provider:

Kind regards

Insert standard external signature

This is further explained in [Appendix 2](#).

6 Information Sharing

6.1 Contact volumes

Each month both parties will exchange data about the number of warm transfers and signposts to each organisation.

The data will be collated on a single report that will be administered and 'owned' by the Intake Team Leaders at the Ombudsman and Concerns Team Manager at CQC.

Those gathering the data will then ensure that the completed reports are available to the LGSCO / CQC relationship owners within 10 working days of the start of the month.

6.2 Feedback between CQC / LGSCO

It is important that both parties receive real time feedback about misdirected calls or incorrect advice. There may be occasions whereby remedial work is required to rectify any issues a customer may have experienced. It also provides an opportunity to identify any training issues that can then be immediately addressed.

Where possible the feedback must include; the relevant case identification numbers, the reason for contacting, names and times, the correct advice and a suggested course of action. This will generally be done via email.

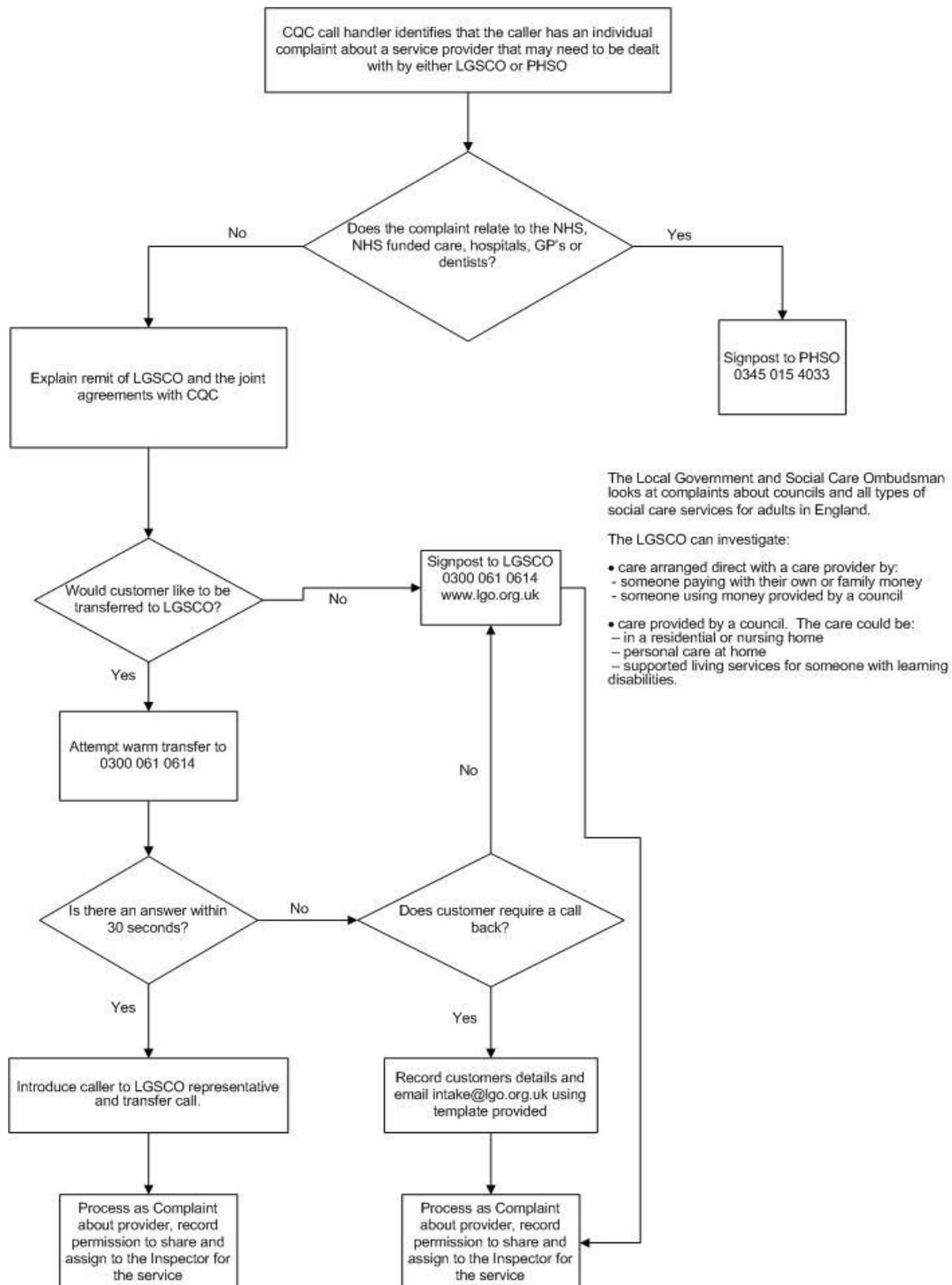
Feedback for the LGSCO will be sent directly to intakemanagers@lgo.org.uk

Feedback for CQC will be sent to NCSCConcernsTeamTMs@cqc.org.uk

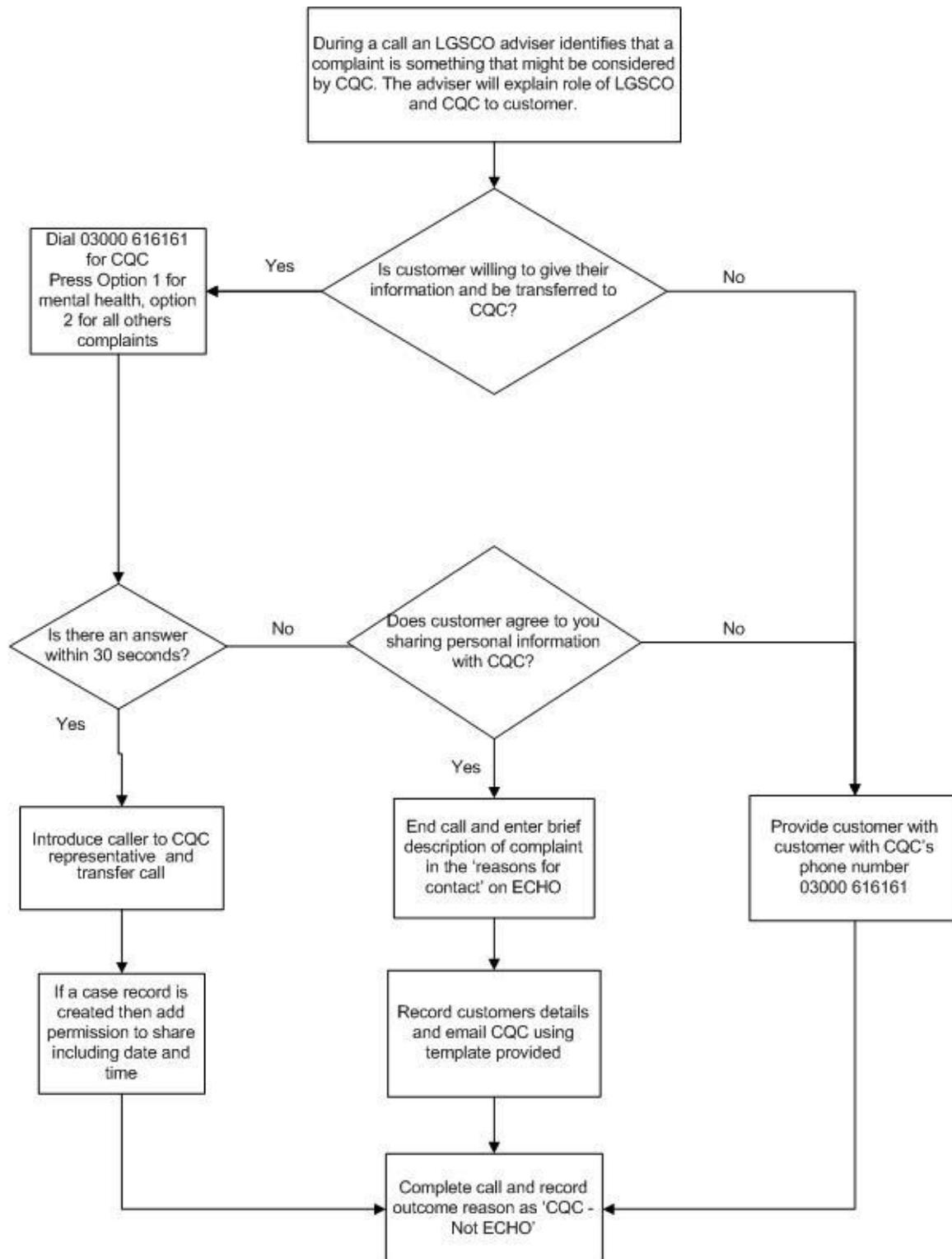
The feedback will be collated and should then be made available to LGSCO / CQC relationship owners at the same time as the contact volumes in section 6.1

Appendix

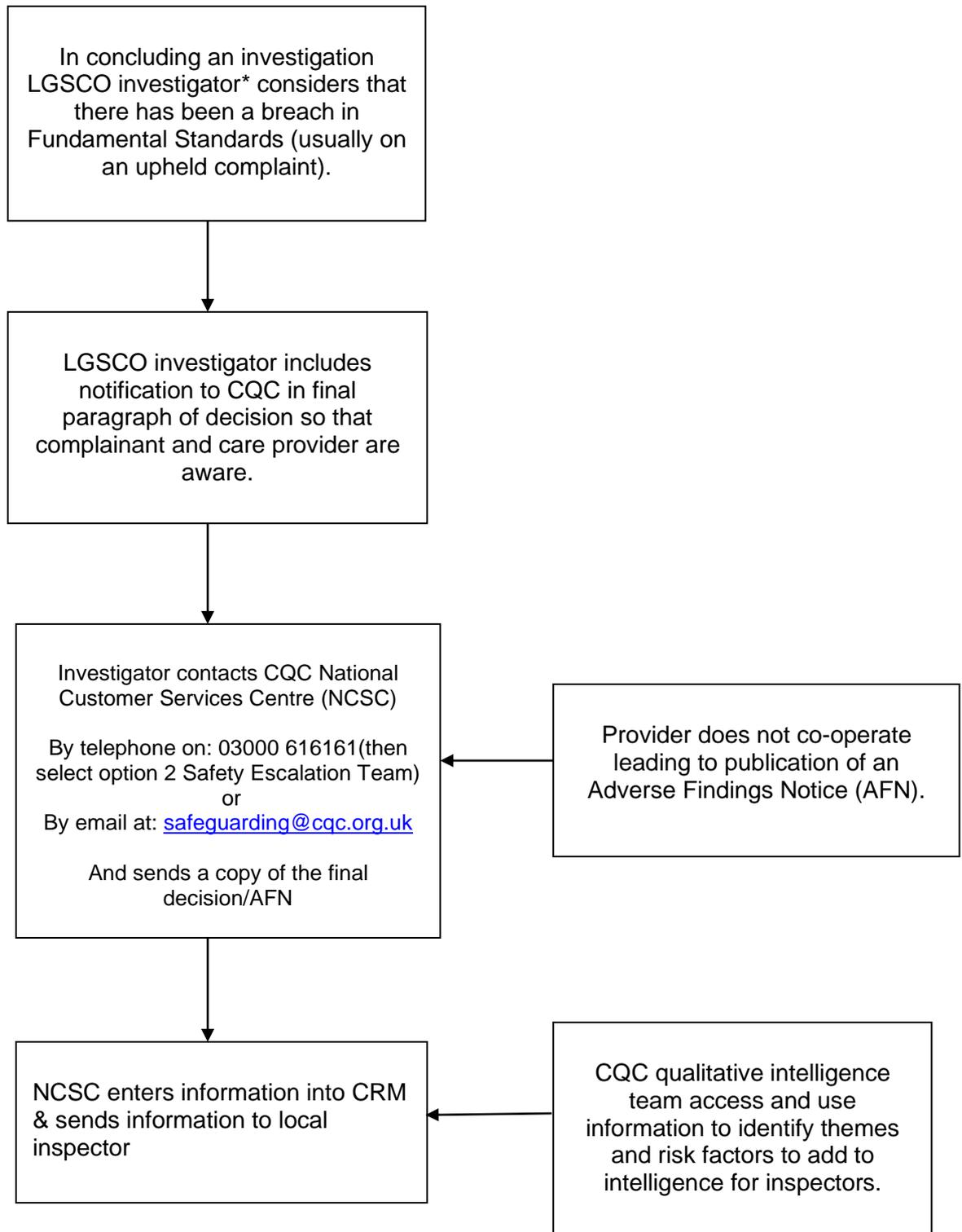
1 Calls received by CQC



2 Calls received by Ombudsman



OMBUDSMAN ALERTS TO CQC



*including decisions from the joint working team

Sharing information regarding change of provider

From time to time the Ombudsman finds itself in a situation where a complaint is made about one provider but prior to the investigation commencing the provider sells or transfers the provision to another provider. This can create difficulties in the Ombudsman's ability to gather information and direct the remedy to the right provider.

Along with other legal documentation a seller should complete an asset transfer agreement stating any outstanding complaints with the Ombudsman and others. Failure to give this information means the new owners cannot be liable for something they were unaware of.

Where an Ombudsman investigator needs to confirm the ownership details of a provision they should:

- 1) Check the CQC website (www.cqc.org.uk) where the current owner should be recorded. (Registration should change immediately a new provider has registered).
- 2) If there is reason to believe the information has not been updated (e.g. knowledge of a change of ownership but previous owners name still recorded) contact can be made with the CQC Head of Registration North & Central (currently Patrick Wright). He can double check whether there are any registration requests pending.

CQC do not keep details of a seller of a care provision once a sale is complete. They would only have the last known details on their system.

The Ombudsman may also use CQC website to see if the provider has other services via which contact can be made. On the CQC website a search can be made to see whether a seller owns any other provision (search by care home, scroll down to 'who runs this service', where it will say 'X Care home is run by X provider' click on the provider name (in blue) and this will detail all the provision registered with that provider. Alternatively, you can search by the name of the provider so long as this is known (you may be dealing with John Smith – but the provider may be John Smith Limited).

The Ombudsman to notify CQC if they have a complaint where the provider is not cooperating due to having ceased trading but hasn't notified new owner and the provider has other provision (e.g. John Smith has sold Oaktrees care home but still owns Cherrytrees and Pinetrees care homes).

If Ombudsman have a name for the other provision (e.g. Cherrytrees and Pinetrees Care Homes) of the owner who has ceased trading at one location (Oaktrees Care Home) then the Ombudsman first needs to:

1. Contact someone at CQC who has the most up-to-date list of which inspection team inspects which provider – which would be the National Customer Service Centre team (contactable via e-mail enquires@cqc.org.uk) providing the name and location of the other provision.
2. The NCSC team would then respond by providing the LGSCO contact that raised the query, via e-mail, with the contact details of the CQC inspection team who deals with the other provider (e.g. Cherrytrees and Pinetrees) care homes.