

Children's Representations and Complaints Policy

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1. Policy

1.1 Introduction and scope

1.1.1 Children's social work practitioners and managers are committed to learning from the experience of those who use our services. Feedback helps us to know what we are doing well and how we need to improve our services. You, or someone supporting you, can complain about the services we provide, or the services of another agency that are provided on our behalf. We will listen to you and aim to put things right as quickly as possible when something has gone wrong.

1.1.2 This policy applies to all staff in Safeguarding and Family Support Services and the Children with Disabilities Team (Education & Commissioning division). This policy relates to the handling of representations and complaints from children and young people, their families or others who have a significant interest in the child's welfare who may wish to complain on their behalf.

1.2 Definition and legal framework

1.2.1 This policy is underpinned by the Children Act (1989) Representations Procedure (England) Regulations 2006. More detailed guidance is contained within statutory guidance 'Getting the Best from Complaints: Social Care Complaints and Representations for Children, Young People and Others' (2006) which is referenced within this policy and should be consulted where more detailed guidance is required.

1.2.2 Children's representations and complaints relate to specified functions defined under Parts 3, 4 and 5 of the Children Act 1989 and the Adoption and Children Act 2002. In general terms, this means all children's social work practice for children in need, children in need of protection, children looked after, adoption services and special guardianship support services. For more information please refer to sections 2.2 – 2.4 of the statutory guidance.

1.2.3 This policy relates to representations and complaints made **by or on behalf of** a child or young person. It therefore follows that children's complaints must evidence that there has been a **direct impact** on the child as a result of the specific issue being complained about. Complaints where there is no direct impact upon the child are managed through the corporate complaints procedure. Where

complaints contain a number of elements, the complaints manager will determine, in liaison with the corporate complaints team, whether the corporate or children's complaints process will be the most appropriate.

1.2.4 A complaint is defined as "an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response."

1.2.5 For a complaint to be considered within this policy there has to be a child, young person, family member or person with a significant interest in the welfare and wellbeing of the child, who is expressing unhappiness or dissatisfaction with the way they have been treated. They believe that the local authority (including a commissioned service or other body providing services on behalf of the local authority) has done something wrong, provided a poor service or failed to do something and they expect this to be looked into and responded to. For more detailed information on who can complain, please refer to section 2.6 of the statutory guidance.

1.2.7 Anonymous complaints should always be recorded and referred to the complaints manager in the same way as other complaints. Anonymous complaints fall outside of the scope of this policy, however the local authority should still decide what action it should take. The fact that the complaint is from an anonymous source should not in itself justify a decision not to pursue the matter or consider alternative procedures.

1.2.8 Where a complaint relates to two or more local authorities, the complaint should be considered by the authority which is looking after the child or in any other case by the authority within whose area the child is ordinarily resident. Section 27 of the Children Act, 1989 provides a duty to cooperate. Good practice suggests that the local authority responding to the complaint should ensure good communication with the other local authority / authorities.

1.2.9 Concerns regarding abusive, persistent or vexatious complaints and complainants should be discussed with the corporate complaints team who can advise further regarding the management of complaints under the Council's unreasonable behaviour policy.

1.3 Exemptions and discretionary powers

1.3.1 The Directorate will not accept a complaint if:

- the complainant does not meet the criteria of who can make a complaint and is not acting on behalf of such an individual (for example, an advocate);
- the complaint is not about the actions or decisions of the Directorate or about somebody acting on its behalf;
- the same complaint has already been investigated through all stages of the complaints policy.

1.3.2 The Directorate has discretion whether to consider a complaint in the following circumstances:

- the complaint is made more than one year after the circumstances that give rise to it;
- there are current family court proceedings or a tribunal concerning the child;
- disciplinary and / or grievance procedures have been invoked or proposed;
- criminal proceedings have been invoked, are being considered, or are pending;
- the complainant has notified that he intends to take proceedings in any court or tribunal;

- the consideration of the complaint has led to concerns for a child's welfare; and
- the consideration of the complaint would prejudice any of the above.

1.3.3 Complaints relating to matters beyond one year can only be considered if (i) it would be unreasonable to have expected the complainant to have made the complaint earlier, and (ii) it is still possible for the matter to be investigated effectively.

2. Standards

2.1 All concerns raised should be resolved as quickly as possible and children, young people and their families provided with a satisfactory outcome, without entering into the formal complains process. Managers will seek to reach resolution informally when they first hear about an expression of dissatisfaction, either through telephone discussion or a meeting in person.

2.2 We should make it easy for children, young people and their families to make a formal complaint, where informal resolution has not been achieved, and give them the reassurance that their complaint will be looked into thoroughly and fairly. This will be achieved by being consistent in the way we respond to complaints, dealing with complaints efficiently, keeping complainants informed, and by viewing complaints as a positive learning experience. Where we decide that matters raised by the complainant are outside of the scope of this policy we will advise the complainant of alternative ways to take the matter forward.

2.3 If the complaint is about a proposed change to a care plan, a placement or a service, the decision may need to be deferred (frozen) until the complaint has been considered. This is a discretionary decision for the local authority and is taken between the complaints manager and the manager of the relevant service.

2.4 All information related to complaints should be stored by the complaints manager and not recorded on children's case files. The child's case file should have a case note which records the date the complaint was made and the date it was resolved.

2.5 All looked after children and young people making a complaint should be given information about how they can access advocacy services.

2.6 All complaints should be logged with the complaints manager.

2.7 All stage 1 complaint responses should be written using the standardised response template (see appendix 1) and should be sent to the complaints manager allowing sufficient time for quality assurance.

2.8 All complaints being managed at stage 1 of the complaints process will be offered a resolution meeting, if this is identified as a helpful way of resolving the complaint. Where a complainant remains dissatisfied following a stage 1 investigation, in all cases a resolution meeting should be held before a stage 2 investigation is instigated. This supports the overarching principle that all complaints should be satisfactorily resolved as quickly and constructively as possible, for the benefit of children and young people.

2.9 Stage 1 investigations should be investigated and responded to by the appropriate manager which will usually be the line manager for the practitioner who holds the relevant child's / young person's case. If the complaint includes elements relating to the practice of the manager, the next line manager above should investigate and respond to the complaint.

2.10 If the complaint at stage 1 has been upheld and appropriate actions taken, a stage 2 investigation will not be instigated, on the basis that it would not lead to a different outcome.

2.11 Stage 2 investigations are undertaken by an investigating officer who may be employed by the local authority but who does not manage the service or person against whom the complaint is being made.

2.12 An independent person who is not employed by the local authority must be appointed for every stage 2 investigation to work alongside the investigating officer to provide an independent and objective view of the investigation.

2.13 All stage 2 investigation reports will use the standardised template (see appendix 2) and investigators will refer to the investigator's good practice guide, Annexe 2 of the statutory guidance.

2.14 Stage 3 panels are convened by the complaints manager and consist of an independent chair and two independent panel members, none of whom can be employed by the local authority or have a close personal connection with an employee of the local authority.

2.15 At all stages, complainants will be kept informed in writing of any delays that have occurred in the progression of their complaint and the reasons why this has occurred. Complainants will be provided with a revised date for the relevant stage to be concluded where this has been extended.

2.16 At all stages, complainants will be given information in writing about the next steps available to them if they remain dissatisfied.

3. Procedure

Stage 1 local resolution: all attempts at informal resolution have not satisfied the complainant

10 days for informal investigation and response, with a further 10 days for more complex complaints and only with agreement from the relevant head of service – however timescales can be extended to allow for advocacy support to be given.

A complaints resolution meeting will be offered within a stage 1 investigation, where it is agreed that this would assist an effective and satisfactory outcome for the complainant, and in all cases where the complaint has been made by a child / young person.

Complainants have the right to request a stage 2 investigation if they have not received a stage 1 response within statutory timescales, however agreement can be made with the complainant to extend this timescale depending on the reason for the delay, for example if a key person is unavailable.

Stage 2 formal investigation: the complainant remains dissatisfied following stage 1 and has requested stage 2, or the local authority have agreed that stage 1 is not appropriate

There is no statutory timescale for the complainant to request a stage 2 investigation, however it is recommended that complainants do so within 20 days of receiving the stage 1 response, in order to effect a timely resolution. Requests for stage 2 investigations will not be considered if they are made later than 60 working days from the completion of the stage 1 response.

A resolution meeting must be convened in all cases where a stage 2 request has been made. This should be held within 5 working days of the stage 2 request being made. Any new complaints elements introduced in the request for stage 2 will instigate a new stage 1 complaint and the stage 2 request will be suspended pending the outcome of the new stage 1 complaint and response. If the complaint at stage 1 has been upheld and appropriate actions taken, a stage 2 investigation will not be instigated, on the basis that it would not lead to a different outcome.

The time limit for completing a stage 2 investigation is 25 working days but in complex cases this can be extended to 65 working days if agreed between the complaints manager and the stage two investigator.

In certain circumstances, a stage 3 review panel can be bypassed and the complainant can refer themselves to the Local Government Ombudsman (LGO).

Stage 3 review panel: stage 2 has been concluded, the complainant remains dissatisfied and early referral to LGO is not appropriate

The complainant has 20 days from the date of the stage 2 adjudication letter to request a review panel. From the date of request the local authority has 30 days in which to hold the review panel.

An early referral will be made to the LGO which bypasses stage 3 where all of the following criteria are met:

- stage 2 must have produced a robust and thorough independent investigation report;
- there must be a completed adjudication;
- the outcome of stage 2 must have been that all complaint elements relating to service delivery have been upheld; and
- the local authority agrees to meet at least the majority of the desired outcomes presented by the complainant regarding social services functions and has a clear action plan for delivery.

The Review Panel should not re-investigate the complaint and should not consider any substantively new complaints that have not been considered at stage 2. The primary purpose of the review panel is to consider the adequacy of the stage 2 investigation, and reach findings on each element of the complaint, focussing on achieving resolution for the complainant.

Following the review panel, the panel has 5 days to issue its findings and the local authority then has 15 days to respond to the panel's findings.

3.3 The prescribed timescales (in working days) for progressing complaints are:

Action	Maximum timescale
Stage 1 local resolution: all attempts at informal resolution have not satisfied the complainant	
The person receiving the complaint asks the complainant to provide all relevant information about their complaint and emails this to: childrenscomplimentsandcomplaints@herefordshire.gov.uk .	Day 1
Complaints officer records the complaint as being received on the complaints file.	Within 24 hours
Relevant manager informed of the complaint and provided with the latest date that the response should be sent to the complaints officer for review.	Within 24 hours
Complaints officer sends acknowledgement letter to the complainant informing them that the complaint has been received and the timescale for investigation and response. If the complaint has been made on behalf of a child by their advocate then an acknowledgement letter will be sent to the child.	Within 48 hours
Complaints resolution meeting to be offered to the complainant and held within 5 working days, in all cases where a complaint has been made by a child / young person, and for other complainants, where a meeting is agreed as an effective means of resolving the complaint.	By day 5
Complaints officer sends an email reminder of the deadline date to the responding manager.	Day 7
Relevant manager investigates and provides a written response to: childrenscomplimentsandcomplaints@herefordshire.gov.uk .	Day 8
Complaints manager quality assures the response letter and liaises with the responding manager if changes required.	Days 8 - 9
Complaints officer to send completed response to the complainant and record that a response has been sent on the child's file. When the complaint has been made by a child / young person, a face to face meeting with the complaints manager will be offered, to explain the outcome of the complaint.	By day 10
Complaint responses extended only by prior agreement with the relevant head of service, agreed before day 10 has passed.	By day 20
Stage 2 formal investigation: the complainant remains dissatisfied following stage 1 and has requested stage 2, or the complainant and the local authority have agreed that stage 1 is not appropriate	
Complaint resolution meeting held between the complaints manager, complainant and responding manager and where appropriate the practitioner, and where the meeting has not achieved a resolution, to consider and agree the appropriate next steps. If the complaint at stage 1 has been upheld and appropriate actions taken, a stage 2 investigation will not be instigated, on the basis that it would not lead to a different outcome.	Within 5 working days of request
Stage 2 investigation timescales commence	
Complaints manager confirms the complaint elements at stage 2 in writing to the complainant.	By day 5
Complaints manager appoints an investigating officer and an independent person.	By day 5

Investigating officer and independent person send written reports of their investigation to the complaints manager.	By day 20
Complaints manager prepares a written report for adjudication by the adjudication officer.	By day 22
Adjudication officer prepares a response to the reports, including their decision on the complaint, actions to be taken and timescales for implementation.	By day 24
Complaints officer send the complainant the reports from the independent investigator, independent person and the adjudication.	By day 25
In complex cases the investigation can be extended up to a maximum of 65 days, with the agreement of the complaints manager and the complainant. Not all stage 2 investigations exceeding 25 working days will require the full 65 days to conclude. The new deadline date should be confirmed in writing to the complainant.	
Stage 3 review panel: stage 2 has been concluded, the complainant remains dissatisfied and early referral to LGO is not appropriate	
Complainant requests review panel.	Within 20 days of adjudication letter
Complaints manager considers whether criteria for early referral to LGO are met and discusses with complainant, confirming this in writing.	Within 2 days of request
Complaints manager acknowledges request in writing, if agreement to proceed to stage 3 has been reached.	Within 2 days of request
Stage 3 panel timescales commence	
Complaints manager appoints Chair and confirms the panel attendees and panel papers with the Chair.	By day 10
Complaints manager appoints two further panel members and agrees the date for the review panel.	By day 15
Complaints officer circulates panel papers and confirms panel date with the complainant.	By day 20
Review panel meeting held.	By day 30
Review panel provides its written findings and any recommendations.	By day 35
DCS provides written response to the review panel's report.	By day 50

APPENDIX 1 - Stage 1 Response Template

PRIVATE AND CONFIDENTIAL
Confirmed address with postcode

Your Ref:
Our Ref: *Complaint reference number*
Please ask for: Complaints team
Direct Line / Extension: 01432 260180
E-mail: childrenscomplimentsandcomplaints@herefordshire.gov.uk
Date

Dear *use formal title, eg Mr, Ms,*

RE: COMPLAINT

My name is.....I am (*job title*). In order to fully investigate the issues you raise in your complaint I have (*actions taken, spoken to..., read files, reviewed the case, for example*) *make it clear that you have looked into the complaint and are not just responding from memory or stating your opinion.*

In your complaint you identify (*number*) issue/s. These are.....*state the issues in simple, clear language using the complainant's words as much as possible.*

Provide a response to each of the issues that is clear and open:

A separate paragraph for each issue that explains what happened and why in relation to the particular issue, if the complaint is valid apologise, state what lessons have been learnt and what we are going to do /already doing to avoid making the same mistake in future. If not valid then explain what happened and why it happened that way clearly.

Avoid abbreviations, acronyms, bullet points, jargon and numbered lists.

I hope that I have been able to reassure you that we have listened to your concerns and have taken action to address the issues.

If you are not happy with this outcome you should contact us within 20 working days of this letter to discuss your concerns further. We will arrange a resolution meeting with you. At this meeting we will further seek to resolve your complaint. If this is not achieved we will provide you with information about the next stage of the complaints process.

If you would like a full copy of our complaints policy please let us know and we will provide this.

Yours sincerely,

NAME

JOB TITLE

APPENDIX 2 - Stage 2 Investigating Officer Report

Please also refer to the investigating officer's good practice guide, Annexe 2 of the statutory guidance

Date terms of reference agreed	
Date report completed	
Name, role / relationship to complainant for all interviewees, and dates they were interviewed	
Chronology of significant events relevant to the complaint	
The complaint elements to be investigated (numbered list)	
Analysis of findings on each of the complaint elements	
Relevant policy, practice and legislation	
Findings, recommendations and responses to the complainant's desired outcomes	
Any other relevant information	
<i>Please provide a separate addendum for any other issues for the local authority</i>	