

Children's Representations and Complaints Policy & Procedure 2021 – 2024

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1. STATEMENT OF PURPOSE

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. It sets out how representations and complaints will be dealt with, the timescales and who should be involved in handling them. Its aim is to provide a comprehensive but easily accessible guide to all aspects of the process.

People who use children's social care services are encouraged to give feedback on the quality and appropriateness of services they receive. This feedback can be in the form of compliments, comments, suggestions, queries or complaints.

Government guidance, 'Getting the Best from Complaints', states:

"Representations may not always be complaints; they might also be positive remarks or ideas that require a response from the local authority. Enquiries or comments about the availability, delivery or nature of a service which are not criticisms are likely to constitute representations, for example, children and young people should be able to put forward ideas or proposals about the service they receive, or the establishment they live in, without having this framed as a complaint".

All of these different kinds of representations from service users and carers should be welcomed and encouraged. The council is committed both to listening to its service users and to using the information received to develop and improve the services it provides and commissions.

The legislation recognises that giving people the right to complain, and to make other representations, is particularly important to those who are most vulnerable, and for those concerned on their behalf, when services are absent, inappropriate or insensitive. A robust and responsive complaints procedure is a key factor in ensuring that the council is seen to care for service users and is open to challenge when there is dissatisfaction with its services.

A complaint, for the purpose of this policy, is defined as:

"An expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response."

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.

There are 3 stages to the Children's Representations and Complaints Policy:

- Stage One.
- Stage Two – Independent Investigation.
- Stage Three – Independent Review Panel hearing.

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 whether the corporate or children's complaints process will be the most appropriate.

This policy provides a framework within which the council will ensure representations and complaints are handled effectively. Incorporating guidance from the Department for Education &

Skills and the Local Government & Social Care Ombudsman (LGSCO) it will underpin operational procedures and activities connected with its implementation.

This policy aims:

- To be clear and easy to use.
- To ensure that the people who use the service are treated with dignity and respect, are not afraid to make a complaint, and have their concerns taken seriously.
- To ensure, as far as is possible, even-handedness in the handling of complaints.
- To ensure that any concerns about the protection of children are referred immediately to the relevant social services teams or to the Police.
- To make sure that as many complaints as possible are resolved swiftly and satisfactorily at local levels.
- To ensure a fair process and adequate support for everyone involved in the complaint.
- To ensure that the child or young person receives a full response without delay.
- To enable any local authority purchasing services in the independent sector, to exercise its continuing duty of care.
- To secure sensible and effective links with other procedures in local government.
- To safeguard the child or young person's rights of access to other means of redress, such as the LGSCO.
- To ensure that the council monitors its performance in handling complaints, delivers what it has promised, learns from complaints and uses this learning to improve services for everyone who uses them.

This policy will inform all staff in Children's Social Care and the Children with Disabilities Team (Education & Commissioning division), members, Investigating Officers, Independent Persons, Review Panellists and contractors, of their responsibilities when receiving and responding to representations and complaints. This document will also inform service users, their carers or representatives of the process that the council has established for handling these.

In the first instance, any representations should be raised with your social worker who will take these forward. Children's social work practitioners and managers are committed to receiving any comments or criticisms about services so that where things have gone wrong they are quickly corrected to ensure the best quality of service possible is achieved, and that we learn 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. This procedure is the method by which service users and carers can express their worries, problems or concerns and be sure they will be listened to, taken seriously and, if possible, their problems resolved quickly and efficiently.

Children and young people can complain about the services we provide, or the services of another agency that are provided on our behalf. We will listen and aim to put things right as quickly as possible when something has gone wrong. This will ensure children and young people who make complaints have their concerns resolved swiftly and, wherever possible, by the people who provide the service locally.

The complaint's procedure will be a useful tool for indicating where services may need improving. It is a positive aid to inform and influence service improvements, not a negative process to apportion blame.

2. BACKGROUND

Legal framework

- 2.1 This policy is underpinned by the [Children Act \(1989\) Representations Procedure \(England\) Regulations 2006](#).
- 2.2 More detailed guidance is contained within statutory guidance '[Getting the Best from Complaints: Social Care Complaints & Representations for Children, Young People & Others](#)' (2006) which is referenced within this policy and should be consulted where more detailed guidance is required.
- 2.3 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](#).

What is covered by this policy and procedure?

- 2.4 For a complaint to be considered within this policy there has to be a child, young person, or a 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 that they (the child or young person) 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.

Who can complain?

- 2.5 Section 26(3) and Section 24D of the Children Act 1989 and Section 3(1) of the Adoption & Children Act 2002 require the responsible authority to consider representations, including complaints, made to it by:
- Any child or young person (or a parent of theirs or someone who has parental responsibility for them) who is being looked after by the local authority or is not looked after by them but is in need;
 - Any local authority foster carer (including those caring for children placed through independent fostering agencies);
 - Children leaving care;
 - Special Guardians;
 - A child or young person (or their parent) to whom a Special Guardian Order is in force;
 - Any person who has applied for an assessment under Section 14F(3) or (4);
 - Any child or young person who may be adopted, their parents and guardians;
 - Persons wishing to adopt a child;
 - Any other person whom arrangements for the provision of adoption services extend;
 - Adopted persons, their parents, natural parents and former guardians; and

- Such other person as the local authority consider has sufficient interest in the child or young person's welfare to warrant their representations being made by them.

What can be complained about?

2.6 Section 26(3) of the Children Act 1989 provides that all functions of the local authority under Part 3 of the Act may form the subject of the complaint. For example, a complaint may arise as a result of many things relating to statutory social services functions such as:

- An unwelcome or disputed decision.
- Concern about the quality or appropriateness of a service.
- Delay in decision making or provision of services.
- Delivery or non-delivery of services including complaints procedures.
- Quantity, frequency, change or cost of a service.
- Attitude or behaviour of staff.
- Application of eligibility and assessment criteria.
- The impact on the child or young person of the application of a local authority policy.
- Assessment, care management and review.

2.7 In addition, the Regulations provide the following new functions may be the subject of a complaint:

Part 4 of the Children Act 1989

- The decision by the local authority to initiate care and supervision orders (Section 31).
- The effect of the care order and the local authority's actions and decisions where a care order is made (Section 33).
- Control of parental contact with children in care (Section 34).
- How supervisors perform their duties where a supervision order is in force (Section 35).

Part 5 of the Children Act 1989

- Matters that do not relate to the Court and which are specifically actions of the local authority can be considered, regarding applications for and duties in relation to child assessment orders (Section 43).
- Matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed (Section 44).
- Where social work information or a social work report has gone to Court, the child or young person can make a complaint about the report, for example, its quality or accuracy, distinct and separate to the subsequent actions of the Court. If this complaint is upheld, the local authority should advise the child or young person what action it proposes to take with regard to court action.
- With complaints about regulated services under the Care Standards Act 2000 and where services are delivered on the local authority's behalf or through an internal service that is regulated, the local authority will need to satisfy itself that the complaint can be considered under this procedure.

2.8 The Regulations also provide that the following adoption-related functions may also be the subject of a complaint:

Adoption Services

- Provision of adoption support services (as described in Regulation 3 of the Adoption Support Service Regulations 2005) insofar as these enable adoptive children to discuss matters relating to adoption.
- Assessment and related decisions for adoption support services as prescribed in Regulation 3 of the Adoption Support Services Regulations 2005 (Parts 4 and 5 of the Adoption Support Services Regulations 2005).
- Placing children for adoption, including parental responsibility and contact issues (Sections 18 to 29 of the 2002 Act).
- Removal of the children who are or may be placed by adoption agencies (Sections 30-35 of the 2002 Act).
- Removal of children in non-agency cases (Section 36-40 of the 2002 Act).
- Duties on receipt of a notice of intention to adopt (Section 44 of the 2002 Act).
- Duties as set out in regulations in respect of:
 - A local authority considering adoption for a child (Part 3 of Adoption Agency Regulations 2005).
 - A proposed placement of a child with prospective adopters (Part 5 of Adoption Agency Regulations 2005).
 - Placement and review (Part 6 of Adoption Agency Regulations 2005).
 - Records (Part 7 of Adoption Agency Regulations 2005).
 - Contact (Part 8 of Adoption Agency Regulations 2005).
 - Parental responsibility prior to adoption abroad (Part 3 of Adoptions with a Foreign Element Regulations 2005).

2.9 Complaints regarding other organisations carrying out work on the council's behalf may be investigated by the organisation concerned or the council team commissioning that service in the first instance, however, the final stages of the complaints process will be managed by the IAT. This includes organisations such as ACE adoption.

Special Guardians

2.10 Under the Special Guardianship Regulations 2005 the following functions may be the subject of a representation or complaint:

- Financial support for Special Guardians.
- Support groups for children and young people to enable them to discuss matters relating to Special Guardianships.
- Assistance in relation to contact.
- Therapeutic services for children and young people.
- Assistance to ensure the continuation of the relationship between the child or young person or their Special Guardian or prospective Special Guardian.

The above is not an exhaustive list.

What is not covered by this policy and procedure?

2.11 Complaints about Children's Services and Children's Social Care where there is no direct impact upon the child or young person. These will be dealt with under our corporate complaints policy.

- 2.12** Complaints about other services or functions provided by other directorates in the council will also be dealt with under our corporate complaints policy.
- 2.13** Complaints about standards in a children's care home would not be covered by this policy and would instead be dealt with by the Commission for Social Care Inspection. Complaints about an incident occurring in a care home would be dealt with by the council.
- 2.14** Complaints about schools will be managed by the school and they should be contacted directly to follow the school's complaints procedure.
- 2.15** The council 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 Children's Services or about somebody acting on its behalf;
 - The same complaint has already been investigated through all stages of the complaints policy;
- 2.16** We may not accept a complaint in the following circumstances:
- The complaint is made more than one year after the circumstances that gave rise to it;
 - There are current family court proceedings or a tribunal concerning the child, or a Court or Tribunal has made, is making, or is able to make a determination on the specifics of the complaint (in these instances it is usual for the IAT to consult with the relevant team for confirmation / clarification);
 - 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.

3. Handing Complaints and Representations

- 3.1** Representations should be raised with your social worker in the first instance who will take these forward.
- 3.2** Complaints which are considered under this policy will be handled by the Complaints Team within the Corporate Support directorate which will be the single point of contact for the customer. A Complaints Officer will acknowledge the complainant, confirm the timescales, assign an investigating officer, assess risk, ensure that a fair investigation takes place either by a service manager or by a complaints manager, quality check all responses, communicate with the complainant and ensure different stages are adhered to after Stage 1.

Complaints made on behalf of a child

- 3.3** Where a complaint is received from a representative acting on behalf of a child or young person, the council should normally confirm where possible that the child or young person is happy for this to happen and that the complaint submitted reflects their views.
- 3.4** The council has the discretion to decide whether or not the representative is suitable to act in this capacity or has sufficient interest in the child's welfare. If the Complaints Manager considers that the representative does not have sufficient interest, he should notify the representative in writing, explaining no further action should be taken. The Complaints Manager should discuss this decision with relevant operational managers as appropriate.

Complaints relating to a child

- 3.5** The council is also likely to receive complaints by adults that relate to a child or young person but are not made on the child's behalf. The Children Act 1989 gives discretion to local authorities to decide in cases where eligibility is not automatic, whether or not an individual has sufficient interest in the child's welfare to justify his own complaint being considered by them. In reaching this decision, where possible, the council will check with the child or young person that he is happy with the person making a complaint.

Where a complaint raises vulnerability or harm issues

- 3.6** The safety and protection of a child or young person is a higher priority than the investigation of the complaint. If they are at risk of harm, child protection procedures should be instigated immediately. Any other aspect of the complaint are put 'on hold' and if appropriate, are resumed as soon as the issue of protection and safety have been concluded.

Anonymous complaints

- 3.7** 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.

Advocacy

- 3.8** Sometimes the child or young person will need extra help to make a complaint or representation, either just at the beginning or possibly throughout the whole process. This may be best provided by a relative or friend, or arrangements can be made to provide independent advocacy support. The child or young person can request this themselves or someone can do this on their behalf.
- 3.9** All looked after children and young people making a complaint or representation should be

given information about how they can access advocacy services. Looked after children and young people will receive publicity about the advocacy service through the Children's Rights & Advocacy Team. The statutory review process includes a requirement to ensure that looked after children are aware of the complaints procedure.

- 3.10** If independent advocacy for children is required it will be made available via the Children's Rights & Advocacy Team. If a child is looked after, leaving care or involved in child protection processes and / or subject to a child protection plan, and aged 10 or over, then this service will be provided under contract.

Timescales

- 3.11** A complaint will only be made within 12 months from the date on which the matter occurred, or the matter came to the attention of the complainant. 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. This is negotiable on a case-by-case basis and at the council's discretion. The Complaints Manager will write to advise the complainant if their complaint cannot be considered, explaining the reasons why this position has been adopted.

Complaints relating to two or more local authorities

- 3.12** 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.

Unreasonable and vexatious complaints

- 3.13** Our staff have the right to be treated with respect and courtesy, and to be spoken to without the use of abusive language by both customers and other staff at all times. The [Unreasonable Behaviour Policy](#) provides further details as to what the council deems to be acceptable and unacceptable behaviour. Where, despite our best efforts to resolve a complaint, the complainant becomes abusive, persistent or vexatious, consideration will be given to managing the complaint and / or complainant under this policy.

4. PROCEDURE FOR HANDLING COMPLAINTS AND REPRESENTATIONS

- 4.1** It should be acknowledged that those in receipt of a service should be able to express their views with regards to the service they receive, or the establishment they live in, without having this framed as a complaint.
- 4.2** Representations are sought and welcomed as a measure of satisfaction. Representations

which are not complaints are recorded and handled by the service area initially, and should be raised with your social worker in the first instance. 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 complaints process. Children's Services will respond to the issues raised and set out what action will be taken. Managers in Children's Services will seek to reach resolution informally when they first hear about an expression of dissatisfaction, either through telephone discussion or a meeting in person.

- 4.3** When the Representation is not a complaint, failure to respond to the child or young person's satisfaction will mean that this failure will move to a complaint at Stage 1 of the procedure.
- 4.4** We will 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.
- 4.5** We will make complaints information accessible. For children and young people with difficulty reading, writing or speaking English the local authority should identify a suitable method of communication so that these children can express and follow the progression on their complaint in full; this might involve the provision of information (including responses to complaints) in large print, translation or in other formats. In the case of complainants with special needs, the local authority should meet the complainant to explain any responses in person.
- 4.6** For people with special needs, such as learning disabilities, sensory or physical impairment or with mental health problems, the Complaints Manager should liaise closely with the authority's specialist teams and relevant voluntary bodies to ensure that the complainant is able to express their complaint in full. The child or young person should have confidence that the council can provide as thorough consideration as for any other service user.
- 4.7** Anyone who wishes to make a formal complaint may do so verbally or in writing (by using a complaints form, letter or email).
- 4.8** If a complaint is made verbally, the details will be written down and checked with the complainant to ensure that all the issues that they wish to be investigated have been captured.
- 4.9** All complaints should be logged with the Complaints Team. Where a complaint is received by an employee other than the Complaints Team, the employee should report the complaint to the Complaints Team immediately, ensuring that all the relevant details are recorded and forwarded to the Complaints Team.
- 4.10** The council has a duty to act expeditiously through this procedure; and ensure complaints are dealt with as swiftly as possible.
- 4.11** Essentially there are 3 stages in the complaints procedure, as set out below:

Stage 1 (further details of this stage are set out in the Appendix)

- 4.12** Complaints will initially be dealt with under Stage 1 of the complaints procedure.
- 4.13** Once a complaint has been received and it has been determined that the complaint falls under the children's representations and complaints policy, an Investigating Officer will be identified and the Complaints Team will log the complaint and acknowledge receipt with the complainant within 3 working days.
- 4.14** 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.
- 4.15** The Investigating Officer will investigate the complaint, write a response and complete a lessons learned template which they will return to the Complaints Team. If they require more time to complete their investigation they will inform the Complaints Team who will liaise with the complainant.
- 4.16** The initial attempt to resolve matters must be made within 10 working days of receipt of the complaint, unless an extension is required or an advocate is being engaged. Extensions for a maximum of an additional 10 working days (i.e. 20 working days in total) are allowed. At all stages, complainants will be kept informed in writing by the Complaints Team 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.
- 4.17** The Complaints Team will quality check the response and send it to the complainant.
- 4.18** Where a complainant remains dissatisfied following a Stage 1 investigation, in all cases a mediation meeting should be offered 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.
- 4.19** If a meeting is declined by the complainant, their complaint will move to Stage 2 of the process.

Stage 2 – Independent Resolution (further details of this stage are set out in the Appendix)

- 4.20** If a complainant is dissatisfied with the Stage 1 response (and the mediation meeting if taken up), then the Complaints Team will inform the Complaints Manager. The complainant has 20 working days to request a Stage 2 investigation from the date of the Stage 1 response.
- 4.21** The Complaints Manager will appoint an appropriate independent investigating Officer and meet with them to agree an investigation plan. The details of the complaint and the desired outcomes should be agreed with the complainant. The Complaints Team will confirm arrangements with the complainant.
- 4.22** 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.
- 4.23** 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.
- 4.24** The Investigating officer / Independent person will conduct an investigation, referring to the investigator's good practice guide, [Annex 2 of the statutory guidance](#), and provide a report to the social care Adjudicating Officer who will carry out the adjudication and write a response letter within 25 working days from the date on which the written complaint was received.
- 4.25** An extension may be agreed with the complainant if the matter is complex but the process should be completed within a maximum of 65 working days.
- 4.26** The Complaints Team will send the response letter and investigation report to the complainant.

Stage 3 – Review Panel (further details of this stage are set out in the Appendix)

- 4.27** If the complainant remains unhappy and is in disagreement with the outcome reached at Stage 2, they are entitled to request that their complaint goes to a review panel. This request must be made within 20 days of the adjudication letter. The Complaints Team will confirm to the complainant that this will proceed to Stage 3.
- 4.28** The Complaints Manager will convene a Stage 3 panel within 10 days. Stage 3 panels 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. In appointing the Panel Chair, former members or officers of the council may be considered on a case-by-case basis, but good practice suggests that 3 years should have elapsed since.
- 4.29** By day 30 a panel meeting will be held. The panel will consider whether the complaint was properly investigated, whether the report has a clear logic and whether the evidence presented supports conclusions and recommendations made at Stage 2. The Panel will focus on the complainant's desired outcomes, with a view to a resolution.
- 4.30** After the Panel meeting takes place, the Panel must produce a written report including recommendations to the Director within 5 working days of the Panel. The Director has a further 15 working days in which to respond to the complainant on the Panel's recommendations.
- 4.31** The Complaints Team will send out the response letter with details of the actions to be taken and the Chair's report to the complainant.
- 4.32** On completion, should the complainant remain dissatisfied they will be advised on how to contact the LGSCO.

Local Government & Social Care Ombudsman (LGSCO)

- 4.33** At all stages, complainants will be given information in writing about the next steps available to them if they remain dissatisfied.
- 4.44** The LGSCO investigate complaints of injustice arising from maladministration by the local authority, which may include looking at complaints both in relation to the provision of social services and in relation to the operation of the complaints policy. They can also investigate complaints about how the local authority has carried out these processes.
- 4.45** The complainant retains the right to approach the LGSCO at any time. However, the Ombudsman would ordinarily expect the local authority to consider the complaint initially and may refer the complaint back to the Complaints Manager if this has not been done.
- 4.46** Where the presenting facts indicate that reasonable, appropriate consideration of the complaint has been undertaken at Stage 2 and that further consideration by the Review Panel would not produce a demonstrably different outcome, the Complaints Manager should discuss the possibility of Early Referral to the LGSCO with the complainant. This is

done on a case-by-case basis. The authority can only consider this option once Stage 2 has been concluded and the complainant has received the authority's final position on the complaints.

Problem solving and Resolution

- 4.47** Solving the problems which generate complaints will be at the forefront of the council's approach to responding to children and young people.
- 4.48** Staff should consider when an unresolved problem becomes a complaint. It is important to ensure that attempts at problem solving are not used to divert an eligible person from making a complaint under the statutory procedure.
- 4.49** Attempts at resolution should not end once a complaint has been made. Rather there should be a continued effort to resolve the dissatisfaction of children and young people so that the matter complained about is resolved during the consideration of the complaint.
- 4.50** There are a number of methods of resolution that do not require a full investigation that can be applied including:
- The provision of an apology or an explanation. This is the correct outcome for most upheld complaints. These must be unambiguous.
 - Conciliation and mediation.
 - A reassessment of the children and young people's needs. This will need to be done promptly, in order that the new service (if any) can be started promptly and the complaint closed.
 - Practical action specific to the particular complaint.
 - A review of practice. If procedure is changed to prevent reoccurrence, confirmation should be given to the complainant as to what the change will be, and when it will be implemented.
 - An assurance that the local authority will monitor the effectiveness of its remedy.

Financial redress

- 4.51** If a complaint is upheld, and the fault has resulted in material, calculable losses, then the council will consider compensation which reflects this loss. This is called financial recompense.

Deferring (freezing) decisions

- 4.52** 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. However, care will be taken if deferring a decision is likely to have a significant effect upon the mental or physical wellbeing of individuals. Decisions need to be made on a case-by-case basis, but there should generally be a presumption in favour of freezing unless there is a good reason against it (for example, leaving a child or young person where they are would put them at risk). In cases where decisions are met with opposing views, advice should be sought from the

appropriate Director in the local authority.

Learning from Complaints and Records Management

- 4.53** It should be remembered that the formal complaint investigation process is not to ‘find fault’ but to look at practices followed in relation to the complaint issues at hand. Investigating Officers at Stage 1 are asked to document learning from the complaint. This is an insightful and valuable source of information and we use these experiences to:
- Identify service problems and make improvements
 - Improve / adapt staff learning and enhance professional development.
- 4.54** Investigation reports from the local authority and LGSCO decisions should be placed on the relevant service user’s file unless there are specific reasons not to do so (e.g. if the reports would cause distress to the child). Those involved in the investigation should have access to notes of their own interview in order to confirm the accuracy of the context. All other relevant papers should be held by the Complaints Team in a separate complaints file.
- 4.55** The complaint may be withdrawn verbally or in writing by the complainant at any stage. The local authority will write to the complainant to confirm the withdrawal of the complaint. In these circumstances, the local authority will also decide whether or not it wishes to continue the issues that gave rise to the complaint through an internal management review. The local authority will then use this work to consider the need for any subsequent actions in the service it delivers. Should the complainant then seek to reinstate the complaint, the local authority could use the review to produce a response as necessary.
- 4.56** Details of the [complaints handling privacy notice are available online](#).
- 4.57** Complaints will be kept securely by the council for 6 years after the final resolution of the complaint.

5. ROLES AND RESPONSIBILITIES

5.1 Management Board

The Management Board will be responsible for ensuring that the council complies with its responsibilities with regards to the handling of children’s representations and complaints, through monitoring activities via at least bi-annual reporting by Complaints Manager, or their representative.

5.2 Directors / Heads of Services / Service Managers / Team Leaders in Children’s Services

The Director / Assistant Directors / Heads of Service / Service Managers / Team Leaders in Children’s Services will be fully aware of their responsibilities with regards to complaints handling. They will ensure that:

- They carry out investigations, or provide information for such investigations, when asked to do so by the Complaints Team or the Complaints Manager. Given the importance of providing an efficient response to the complainant, they will prioritise their work effectively and have due regard to the regulated timescales for investigation, so that responses can be sent out in a timely manner.
- They provide a comprehensive, open, transparent and fair consideration of the complaint through sensitive and thorough interviewing of the complainant, consideration of social work records and other relevant information, interviewing staff and other people relevant to the complaint, and analysing information.
- Prepare a report of their investigation in clear, plain language within a letter of response to the complainant. They effectively liaise with the complainant or advocate, the Complaints Team, Complaints Manager and external Investigating Officers (IO) and Independent Persons (IP) as appropriate.
- They address any issues or actions identified with the Complaints Manager and the Complaints Team and their teams with a commitment to improve performance, resolve problems and learn from complaints.

5.3 Complaints Team

The Complaints Team will:

- Produce and maintain up-to-date complaints policies and procedures.
- Provide training to employees in Children's Services on how to deal with complaints, as and when required.
- Ensure appropriate mechanisms are in place to raise staff awareness of complaints handling.
- Log and acknowledge all complaints.
- Appoint an investigating officer at Stage 1 to undertake an investigation into the complaint within the statutory timescales.
- Maintain regular contact with complainants.
- Review the response and outcome before providing a formal Stage 1 response to the complainant.
- Support the Complaints Manager with administering Stages 2 and 3.
- Act as a point of contact for, and co-operate with, the LGSCO.
- Record actions and learning from complaints and share these with directors and service managers in Children's Services on a regular basis.

5.4 All staff in Children's Services and members

It is the duty of all staff in Children's Services and members to ensure:

- They are fully aware of this policy and procedure, and their responsibilities with regards to complaints handling, and they must comply with this procedure and any associated procedures.
- That any formal complaints they receive direct are dealt with in compliance with this policy and any prevailing procedures, and are forwarded to the Complaints Team immediately upon receipt.
- They provide any information requested from them by the Complaints Team or the Investigating Officer to ensure that responses to complaints are dealt with in a timely manner.
- They maintain a good awareness of complaints handling by undertaking relevant training.

It is the responsibility of all staff in Children's Services and members to ensure that they comply with the requirements of this procedure and any associated policies and procedures. Failure to do so may result in disciplinary action being taken against staff, or councillors may be referred to the Monitoring Officer for breach of the code of conduct.

5.5 Contractors

It is the duty of contractors to ensure:

- They are fully aware of this procedure and their responsibilities with regards to children's representations and complaints handling, and they must comply with this procedure and any associated procedures.
- That any formal complaints they receive direct are dealt with in compliance with this procedure and any prevailing procedures, and are forwarded to the Complaints Team immediately upon receipt.
- They provide any information requested from them by the Complaints Team or the investigating officer to ensure that responses to complaints are dealt with within statutory timescales.
- They maintain a good awareness of complaints handling by undertaking relevant training.

5.6 Complaints Manager

The Complaints Manager will:

- Manage, develop, resource and administer this complaints procedure.
- Oversee the work of the Complaints Team with regards to the receipt and investigation of complaints.
- Liaise with the Investigating Officer and Independent Person where appropriate to identify options for resolution.
- Appoint people at Stage 2 and Stage 3 including a Chair, Review Panellists and Independent Persons.
- Ensure there are no conflicts of interest at any stage between parties involved in delivering this procedure.
- Make recommendations to the local authority on any other action to take following an investigation.
- Issue the details of the adjudication with the investigation report and the Independent Person's report.
- Work closely with the Panel Chair on the organisation of Stage 3 Review Panels.
- Compile the annual report.

5.7 Adjudicating Officer

The Adjudicating Officer will:

- Consider the complaints, the Investigating Officer and Independent Person's findings, conclusions and recommendations, and the complainant's desired outcomes.
- Write to the complainant at the end of Stage 2 with details of the adjudication which: confirms the local authority's response to the report, gives the adjudicating officer's view on whether the investigation has been through and complete, states the adjudicating officer's position on the Investigating Officer and Independent Person's findings against each point of the complaint, states any action that will be taken and the timescales for implementation, confirms the complainant's right to request Stage 3 within 20 working

- days and reminds the complainant of their right to approach the LGSCO at any time.
- Release their report to their staff as appropriate.

5.8 Independent Persons (IP)

The Independent Persons (IP) will:

- Ensure the process of investigation is open, transparent and fair.
- Work alongside the investigating officer to provide an independent and objective view to the investigation of complaints.
- See the same relevant files and documents as the Investigating Officer, and participate in all interviews and discussions relevant to the investigation.
- Read the Investigating Officer's report and produce their own report on the investigation.
- Comment on complaints and state whether they agree with the Investigating Officer's findings on them and explain, where necessary, their reasons for considering an investigation to be unfair or incomplete, and to advise the complainant of this in their report.

5.9 Review Panellists

Review Panellists will:

- Read Panel papers in advance of the meeting.
- Attend for the entirety of the Panel and contribute to the consideration of the complaint through the Chair.
- Support the Chair by taking an active part in the decision making process.
- Contribute to the deliberations and the wording of the Panel's findings.
- Provide relevant opinion based on any specialist skills, knowledge and awareness that they have in respect of the presenting complaint.

5.10 Independent Chair of the Review Panel

The Chair will:

- Confer with the Complaints Manager about the specific needs of the complainant.
- Agree who will attend as the local authority representative and request the attendance of any other person who may assist in understanding the complaint and its context.
- Chair the Panel meeting by ensuring the complainant is heard in full, the panel runs smoothly and each participant is given an opportunity to contribute appropriately.
- Manage the Panel's deliberations to produce a timely and full response to the complainant and local authority within 5 working days of the Panel meeting.
- Be available to meet council staff, if needed, after the Panel meeting to discuss any recommendations arising.

5.11 Who will implement and monitor this procedure?

The council will monitor the complaints arrangements that are in place to ensure that they comply with the Regulations (Regulation 13). The council must keep a record of:

- Each representation / complaint received.
- The outcome of each i.e. the decision made in response to the representation / complaint

- and any action to be taken.
- Whether there was compliance within the time limits.

The Complaints Manager will liaise with the Independent Reviewing Officers and any other members of staff to compile the total number of representations.

The overall purpose of recording is to enable:

- Children and young people to see that their concerns and suggestions are being dealt with and that a thorough and fair consideration has taken place.
- The organisation to demonstrate that complaints are taken seriously and how they are resolved.
- Feedback from representations and complaints to lead to improvements in service planning and delivery.

Annual Report

The local authority must, each financial year, publish an Annual Report (Regulation 13(3)). This should draw upon the information already gathered for recording purposes. However, this Annual Report is a separate requirement and should not contain personal information that is identifiable about any individual complainant.

The Annual Report should be arranged by the Complaints Manager and should provide a mechanism by which the local authority can be kept informed about the operation of its complaints procedure. The report should be presented to staff, the relevant local authority committee and should be available to the regulator and the general public. It should provide information about:

- Representations made to the local authority.
- The number of complaints at each stage and any that were considered by the LGSCO.
- Which customer groups made the complaints.
- The types of complaint made.
- The outcome of complaints.
- Details about advocacy services provided under these arrangements.
- Compliance with timescales and complaints resolved within extended timescales as agreed.
- Learning and service improvement, including changes to services that have been implemented and details of any that have not been implemented.
- A summary of statistical data about the age, gender, disability, sexual orientation and ethnicity of complainants where the identity of complainants would not be compromised.
- A review of the effectiveness of the complaints procedure.

We will monitor the operation and effectiveness of this complaints procedure as well as how information about complaints is being used to improve services and delivery. This will provide a system for:

- The dissemination of learning from complaints to line managers.
- The use of the complaints procedure as a measure of performance and means of quality control.
- Information derived from complaints to contribute to practice development, commissioning

and service planning.

The Complaints Manager will be responsible for compiling bi-annual reports for the Management Board and the Annual Report to the Audit & Scrutiny Committee.

The Complaints Team will keep a record of all children's representations and complaints, including dates received, acknowledged, responded, stage, category of complaint, outcome, actions taken and lessons learned.

Regular reports will be sent by the Complaints Team to service areas and senior management in Children's Services to indicate the number of complaints received, how many are dealt with within statutory timescales, and what service improvements and changes have been made as an outcome to complaints received.

This procedure and associated procedures will be monitored by the Complaints Team. The Director Corporate Centre will be kept informed of any issues and instances of non-compliance regarding this procedure.

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Responsible Assistant Director or sponsor:
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APPENDIX – Details of Complaint Stages & Timescales

The following tables set out the process that will be followed at all stages of the complaint:

Process at each stage of the complaint:
Stage 1: all attempts at informal resolution have not satisfied the complainant
<p>10 days for formal investigation and response, with a further 10 days for more complex complaints – however timescales can be extended to allow for advocacy support to be given.</p> <p>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.</p>
Stage 2 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
<p>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.</p> <p>A resolution meeting must be offered in all cases where a stage 2 request has been made. This should be held within 10 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.</p> <p>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.</p> <p>In certain circumstances, a stage 3 review panel can be bypassed and the complainant can refer themselves to the LGSCO.</p>
Stage 3 review panel: stage 2 has been concluded, the complainant remains dissatisfied and early referral to LGSCO is not appropriate
<p>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.</p> <p>An early referral will be made to the LGSCO which bypasses stage 3 where <u>all</u> of the following criteria are met:</p> <ul style="list-style-type: none">• 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

Process at each stage of the complaint:

- 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, focusing 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.

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

Action	Maximum timescale
<p>Stage 1: all attempts at informal resolution have not satisfied the complainant</p> <p>Complaint received direct by the Complaints Team or the person receiving the complaint asks the complainant to provide all relevant information about their complaint and emails this to: complaints@herefordshire.gov.uk.</p>	Day 1
The Complaints Team will record the complaint.	Within 3 working days
Relevant manager informed of the complaint and provided with the latest date that the response should be sent to the Complaints Team for review.	Within 3 working days
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 3 working days
The Complaints Team sends an email reminder of the deadline date to the responding manager.	Day 7
Relevant manager investigates and provides a written response to the Complaints Team.	Day 8
The Complaints Team quality assures the response letter and liaises with the responding manager if changes are required.	Days 8 - 9
The Complaints Team to send completed response to the complainant and record that a response has been sent. 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
Action	Maximum timescale
Stage 2 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	Within 5 working days of request
Complaints manager appoints Investigating Officer	
The Investigating Officer and Independent Person confirm the complaints elements at stage 2 in writing to the complainant.	
Stage 2 investigation timescales commence	
Investigating Officer and Independent Person send written reports of their investigation to the Complaints Manager.	
Adjudication officer prepares a response to the reports, including their decision on the complaint, actions to be taken and timescales for implementation.	
The Complaints Team 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 LGSCO is not appropriate	Within 20 working days of adjudication letter
Complainant requests review panel.	
Complaints Manager considers whether criteria for early referral to LGSCO are met and discusses with complainant, confirming this in writing.	Within 2 working days of request
Complaints Manager acknowledges request in writing, if agreement to proceed to stage 3 has been reached.	Within 2 working 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

The Complaints Team circulates panel papers and confirms panel date with the complainant.	By day 20
Review panel meeting held.	By day 30
Action	Maximum timescale
Review panel provides its written findings and any recommendations.	By day 35
Director provides written response to the review panel's report.	By day 50