



Dudley Children's Services

## **COMPLIMENTS, COMMENTS & COMPLAINTS PROCEDURE**

**People Directorate: Children's Services**

**REVIEWED: February 2019**



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The procedures and guidance are sub-divided into 10 Parts, as listed below.

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## **PART ONE: INTRODUCTION**

These procedures outline the system within this Directorate for receiving and responding to complaints relating to Children Services. They are primarily aimed at representations by service users.

Children's Services is required to have a complaints and representations procedure as defined in The Children Act 1989 Representations Procedure (England) Regulations 2006.

If the person wishing to complain does not meet the requirements to make a complaint under these statutory procedures then the complaint may be considered to be dealt with under the Local Authority's corporate complaints process.

Enquires raised by Members of Parliament or local councilors are outside of the remit of these procedures.

### **1.1 Getting the most from the Complaints Process**

The complaints process is intended to ensure that anyone wishing to make a complaint receives a professional service that helps to resolve or explain any concerns that they may have about Children's Services.

We would therefore advise all persons making a complaint that they will receive a more effective response to their complaint where they –

- Cooperate with the local authority in seeking a solution to the complaint;
- Express the complaint in full and as early as possible;
- Respond promptly to requests for information or meetings or in agreeing the details of their complaint
- Set out the outcomes they wish to achieve as a result of raising their concerns.
- Ask the Complaints Team for assistance as needed; and
- Treat all those involved in dealing with their complaint with respect.

### **1.2 Representations**

A Representation is a compliment, comment or complaint about the availability, nature, or delivery of social care services to children and young people.

The Peoples Directorate of Children Services is committed to increasing the voice for all children/young people in all that we do. We see a fair and accessible complaint process as integral to this. The emphasis is to respond quickly and effectively to issues arising aiming to continually improve

the services provided by the Directorate and to give recognition to good performance.

### **1.3 The Complaints Team**

The Complaints Team has responsibility for the day to day operation of the Complaints Procedure on behalf of the Peoples Directorate of Children's Services.

The team can be contacted by phone on 01384 814724 / 812417 by email [complaints.socialcare@dudley.gov.uk](mailto:complaints.socialcare@dudley.gov.uk) or by writing to The Complaints Team, Floor 3, 3-5 St James's Road, Dudley DY1 1HZ.

### **1.4 Legal Status**

The Procedures are not intended to:-

- Be used where other more appropriate procedures are in place or should take precedence such as Child Protection Procedures, or court proceedings.
- Be used to investigate issues of policy. Such matters may be commented on and passed to the Chief Officer of Children Services for consideration.
- Disregard the rights of staff.

## **PART TWO: COMMENTS & COMPLIMENTS**

### **2.1 Responding to 'Comments'**

All service users and those concerned about the service should be able, and encouraged to put forward comments to the Directorate. For example ideas or proposals about the service they receive, or the establishment they live in, without having this framed as a complaint.

Comments can be made at any point of access to the Council's services. The manager receiving the comment should ensure that the person raising the issue is responded to, and informed of what action, if any the Directorate will take. Should the Directorate fail to respond to the person's satisfaction, they would be entitled to make a complaint at Stage 1 of this complaints procedure.

Comments received by the Complaints Team will be recorded, acknowledged and then forwarded to the relevant service manager for a response.

### **2.2 Dealing with Compliments**

Children Services provides a wide range of help and advice to a large number of children and families in Dudley MBC and receives many compliments.

Compliments provide useful feedback and can also be a source of learning. All compliments should be forwarded to the Complaints Team who are responsible for registering and reporting on all feedback regarding Children's Services.

Compliments can also be from internal colleagues.

## PART THREE: COMPLAINTS

### 3.1 Definition of a Complaint

A complaint is any written or oral expression of dissatisfaction or disquiet in relation to the Directorate's exercise of its Social Care functions.

A complaint can be said to be:-

*An expression of dissatisfaction, however made, about the standards of service, action or lack of action, decisions taken, or the way in which Children Services or its employees do their job.”*

A complaint may arise as a result of an unwelcome or disputed decision, concern about the quality or appropriateness of services, delay in decision-making, or about the delivery or non-delivery of services for children/young people and their carers. Service provision includes the administration, financial and personnel functions of the Directorate of Children Services. However, it should be noted that at times Children's Services will make decisions that are unwelcome but necessary to protect children. **It should also be noted that decisions made by the Court can only be disputed in Court.**

### 3.2 The three stages of the Complaints Procedure:

A complaint will be investigated as a **statutory complaint if it meets the requirements to be considered as such**. If it does not meet the requirements it will be considered under Dudley MBC corporate complaints procedure.

The statutory complaints procedure is a three stage process: -

- Stage 1 - Local Resolution
- Stage 2 - Formal Complaint Investigation Stage;
- Stage 3 - Review Panel Stage.

A complaint is made on the date on which it was first received, by the Directorate.

Once a complaint has entered Stage 1, the complainant has the right to proceed to Stage 2 and 3 of this procedure. The expectation is that every effort will be made to resolve a complaint locally at Stage 1 using all available means, e.g. meeting with the complainant, an immediate phone call to the complainant. There is however an expectation that a complainant will cooperate fully with regard to providing all necessary information to enable a resolution to their complaint.

There may be occasions when it is not appropriate to deal with a complaint under Stage 1 as other procedures may be appropriate e.g. a decision made by the Court can only be addressed by the Court.-

### **3.3 Timescales**

In working days, the timescales for Stages 1 to 3 are: -

- 10 days at Stage 1 (or 20 days where agreed with the complainant or complex complaints or where time is needed to appoint an advocate);
- 25 days at Stage 2 (with a maximum extension to 65 days);
- 20 days for the complainant to request a Review Panel;
- 30 days to convene and hold the Review Panel at Stage 3;
- 5 days for the Panel to issue its findings; and 15 days for the Director to respond to the complainant.

### **3.4 Time Limit for making a complaint**

The Directorate need not consider complaints made more than one year after the date of the event which gave rise to the complaint or the date the complainant became aware of it. However, where the Complaints Manager believes that the complainant may not have been able to raise the complaint within the time allowed they have discretion to determine whether it is still possible to consider the complaint effectively and efficiently or whether there are other options available to address the issues being raised.

### **3.5 Who may complain under the Statutory Process:**

A child or young person (or parent 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 a child in need as described in the Children Act 1989;

- A foster carer (including those caring for children placed through independent fostering agencies);
- A child or young person who is a care leaver
- A child or young person (or parent of his) to whom a Special Guardianship Order is in force;
- Any person who has applied for an assessment under section 14F(3) or (4);
- Any child or young person whose care plan shows they 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;

and

- Adopted persons, their adopted parents, birth parents and former guardians;
- Such other person as the Local Authority considers has sufficient interest in the child or young person's welfare to warrant his representations being considered by them.



### **3.6 What may be complained about: -**

A complaint may arise as a result of many things such as:

- An unwelcome or disputed decision; but not safeguarding.
- Concern about the quality or appropriateness of a service;
- Delay in decision making or provision of services;
- Delivery or non-delivery of services;
- Quantity, frequency, change or cost of a service;
- Attitude or behaviour of staff;
- Application of eligibility and assessment criteria;
- The impact on a child or young person of the application of a local authority policy; and
- Assessment, care management and review.

In addition, the Regulations provide that the following functions **may** be the subject of a statutory complaint.

- Decision to initiate Care and Supervision Orders
- The effect of the Care Order and the Local Authority's actions and decisions where a Care Order is made.
- Issues of parental contact with children in care.
- How supervisors perform their duties where a supervision order is in force.
- 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.
- Matters relating to applications for Emergency Protection Orders and decisions relating to the return of children who have been removed.

### **3.7 Adoption services:-**

The following are examples of adoption related functions which can be the subject of a statutory complaint:

- Provision of adoption support services, assessments and related decisions for adoption support services.

- Placing children for adoption, including parental responsibility and contact issues.
- Removal of children who are or may be placed by adoption agencies.
- Removal of children in non-agency cases.
- Duties on receipt of a notice of intention to adopt.
- A proposed placement of a child with prospective adopter[s].
- Placement and reviews and records, contact and parental responsibility prior to adoption abroad.

### 3.8 Special Guardianship Support Services

Special Guardianship Regulations 2005 came into force on 30 December 2005 under those Regulations the following functions may be the subject of a comment or statutory complaint:

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

### 3.9 Complaints will **NOT** be considered where:-

- The person wishing to complain does not meet the requirements of "who may complain" and is not acting on behalf of such an individual;
- The complaint is not in regard to actions or decisions of the Local Authority complained to, or of anybody acting on its behalf; or
- The complaint has already been dealt with at all Stages of this procedure.

**In addition** Children Service's will **not** consider, or further consider complaints in relation to which -

- (a) The complainant has made representation to the Local Authority that they are taking, or intend to take, proceedings in any court or tribunal;
- (b) The Local Authority is taking disciplinary proceedings against any person;

- (c) The Local Authority has been notified that another person or agency is conducting an investigation in contemplation of criminal proceedings; or
- (d) The Local Authority has been notified that criminal proceedings are pending,
- (e) The Local Authority decides that consideration, or further consideration, of the complaint would prejudice the conduct of any proceedings or investigation.

Where it is decided not to consider, or further consider a specific complaint the Complaints Manager will as soon as possible give notice in writing to the complainant explaining the reasons for the decision.

Where a complaint has not been considered because it may compromise or prejudice an investigation or proceedings elsewhere; e.g. Court/criminal proceedings, the complainant may resubmit their complaint to the Directorate as long as it is within one year of the conclusion of the concurrent investigation.

### **3.10 Discretion on complaints made on behalf of a child or young person**

The Children Act 1989 gives local authorities discretion to decide in cases where eligibility is not automatic whether or not an individual has 'sufficient interest' in the child's welfare to justify the consideration of a complaint. In reaching a decision, the Directorate must take into account the views of the child if they consider it appropriate to do so. If the Complaints Manager in consultation with senior management concludes that the person **DOES** have sufficient interest then the complaint will be accepted, normally at Stage 1 of the statutory complaints procedure.

Where it is determined that the person does **NOT** have sufficient interest then the Complaints Manager must notify them of the decision and tell them that no further action will be taken in respect of the complaints. The Complaints Manager must make arrangements to tell the child concerned of the decision wherever it is considered reasonable and appropriate to do so.

### **3.11 Relationship with other procedures**

There are other procedures which take precedence over this procedure, for example:

- Child protection
- Grievance procedures
- Disciplinary procedures
- Where a Court is involved or about to be involved in the matters raised.

### **3.12 Anonymous complaints**

An anonymous complaint should always be referred to the Complaints Team in the same way as other complaints. However, these fall outside the scope of the statutory procedure and the Complaints Manager will decide what action to take on a case by case basis. The fact that the complaint is from an anonymous source is not enough in itself to justify a decision not to pursue the matter. Nor should it rule out referral to other procedures as relevant for example someone raises a complaint regarding a family who are known to Children's Services and it is claimed that no intervention is being made to what they believe is an escalating situation.

### **3.13 Confidential Complaints**

A common theme arising out of major investigations into complex child abuse cases concludes that children must have safe and easy access to a robust complaint process and must be allowed to make a complaint in confidence. This procedure therefore allows for children to have the right to meet in confidence with the Complaints Manager or Complaints Officer [together with their advocate if requested] prior to a complaint being registered. The child/young person will be advised that the matters raised will if requested remain confidential except in circumstances where there could be risks to the child/young person or others by not disclosing the details.

### **3.14 Complaints about a Children's Services Policy**

Such complaints must be registered at Stage 1 of the complaint procedure, and a manager from the service concerned should provide a suitable response. However, if the complainant remains dissatisfied then the complaint will **not** enter Stage 2 of the statutory process but will instead be passed to the Chief Officer of Children Services who will consider the matter and decide what action, if any, can or should be taken. If the complainant remains dissatisfied with the outcome they have the right to forward the matter to the Chief Executive's Office for final consideration

### **3.15 Corporate Complaints**

If a complaint does not meet the requirements to be dealt with under the statutory process it will be considered under the Council's corporate process. This is a two-stage process where the complaint is first considered locally by the relevant manager, and if the issue cannot be resolved it can be referred to a senior or nominated manager to consider.

### **3.16 Withdrawing a Complaint**

A complaint may be withdrawn orally, or in writing at any time by the complainant or their representative. If the Complaints Team are informed orally that a complainant wishes to withdraw their complaint or are advised by another person that the complaint has been withdrawn they will write to the complainant confirming the withdrawal of the complaint.

### 3.17 Deferring (Freezing) Decisions

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 is considered.

- A decision to defer will be made by the relevant Service / Team Managers in discussion with those working with the child or young person.
- 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, if leaving a child or young person where they are places them at risk. Where agreement cannot be found as to whether to defer or not then the final decision rests with the Chief Officer.

### 3.18 Special Needs

The manager dealing with the complaint or the Complaints Team Manager should, where possible, determine whether the complainant has any special needs which should be taken into account during the response to the complaint.

### 3.19 Advocacy

When a child or young person makes a complaint they should be offered an advocate, and the advocate must remain in place throughout the time the complaint is being dealt with. Advocacy support should be independent and confidential. The People's Directorate of Children Services has a contract with an independent advocacy agency to provide advocacy to any looked after child or child in need wishing to pursue a complaint.

### 3.20 Local Government & Social Care Ombudsman

The Office of the Local Government & Social Care Ombudsman (LGSCO) exists to receive and investigate complaints about maladministration by local Councils. The LGSCO operates separately from the Local Authority complaints procedures and any citizen can complain directly to them. **However, it is usual for the Ombudsman to refer complainants back to the local council's procedure where the complainant has not first raised their concern with the Council or not provided an opportunity for the Council to respond and resolve matters locally.**

The Local Government & Social Care Ombudsman can be contacted by telephone on 0300 061 0614.

## **PART FOUR: THE COMPLAINTS PROCESS**

### **4.1 Receiving a complaint**

As previously stated the statutory timescale for responding to a complaint begins on the day the complaint is received by the authority.

A complaint can be made at any point of access to the Council's services or directly to the service or individual involved or to the Complaints Team. The complaint can be made in writing, verbally, by e mail, in person or via an advocate.

**ALL complaints must be sent to and registered by the Complaints Team. This will ensure that a complaint is managed and monitored appropriately.**

The Complaints Team will, on the day the complaint is received or latest next working day register the complaint and send an acknowledgement to the complainant.

### **4.2 Informal Complaints**

If a complaint is made verbally, directly to the service concerned and the manager concludes that the complaint can be resolved on the day it is received or by the latest on the next working day, it need not be dealt with under the formal complaints handling arrangements. The manager, or an officer delegated by the manager, should liaise directly with the complainant in order to discuss and resolve the complaint.

If the complaint can be resolved a record of the complaint and the outcome should be noted on the relevant case notes. If it cannot be resolved the complaint must be referred to the Complaints Team for registration as an official complaint.

### **4.3 Resolving Complaints**

The Complaints Team is available to be contacted on any individual complaint to offer advice and information in seeking a resolution.

The manager responding to the complaint is responsible for investigating and providing a written response to the complainant. However, they can send the complaint response to the Complaints Team **prior** to sending it to the complainant in order that any advice on resolutions can be put forward or amendments suggested. If this request is made sufficient time should be allowed for the response to be checked in order that the required timescales are still adhered to.

It is important to ensure that attempts at problem solving should not be used to divert a child/young person from making a complaint. However, attempts at problem-solving should not end once a complaint has been made, there should be continued efforts to resolve the complaint at any point within the complaint process.

Each complaint must be considered on its own merits, but many complaints can be resolved by providing an early response. The following can also help to resolve a complaint: -

- Face-to-face meeting or telephone conversation: Direct contact by the manager with a complainant, ideally within a few days of the complaint being received, can contribute significantly to achieving a resolution.
- Apology: If the Manager responding to the complaint finds that the complainant has not received the service they should have, or the quality has been poor then an apology should be offered. An apology in these circumstances is not an admission of liability.
- Explanation: An explanation which is clear and easy to understand can very often resolve a complaint, particularly if it provides the background to what went wrong or events leading to the complaint. An apology should also be provided if necessary, and an assurance where appropriate that the Directorate will monitor the effectiveness of the resolution put forward.
- Reconsider the decision: The complaint process is not, and must not be about asking managers to change correct decisions and assessments. However, where it is felt that a decision or assessment could reasonably be reviewed this should be considered. It may not necessarily result in a change of decision but could lead to greater acceptance and understanding of the decision and a resolution to the complaint.
- Review practice or procedures: Often a complainant will say that what they want is for re-assurance that the mistake made will not happen again. A letter of response to a complainant with brief details stating what measures will be taken, by whom and when, to ensure that a similar situation should not happen again can greatly improve the chances of resolution.
- Mediation & Conciliation: These can be used at any stage of the complaint procedure. The Complaints Team will, where agreed, take the lead in facilitating mediation between the parties concerned. All parties should confirm their willingness to be involved and that they are committed to seeking a resolution. However, the complainant can terminate mediation at any time and either ask for the matters to proceed through the various stages of the complaint process or decide to withdraw the complaint.

If the matter is resolved through mediation, conciliation or other forms of dispute resolution, the authority must send a letter to the complainant confirming the agreed resolution.

#### **4.4 Learning from Compliments, Comments and Complaints,**

It is vital that lessons are learned from any feedback that is received and where services are changed, reviewed or maintained accordingly.

Each time a complaint is registered a learning form is sent by the Complaints Team to the relevant manager, to identify and record any learning.

The Complaints Team record and work closely with Children's Services for Professional Development to ensure learning and good practice is shared and implemented. Learning can be applied to individuals, teams, individual service areas or the Service as a whole.



## **PART 5: THE 3 STAGES OF THE STATUTORY COMPLAINT PROCEDURE**

### **5.1 Stage 1 - Local Resolution**

When a complaint is received it is referred to the relevant manager to investigate and provide a written response. If the complainant is unhappy with the response to their complaint they are advised to contact the Complaints Team.

When the Complaints Team are contacted by the complainant about the response to their complaint they will first try to resolve the matter by asking the relevant manager to consider any information provided by the complainant and provide a further response to the complainant.

When appropriate the Complaints Manager may facilitate a meeting with the relevant manager and the complainant if it is felt this may help to resolve the complaint.

### **5.2 Stage 2 - Independent Investigation**

If a complainant is not happy with the outcome of their complaint at Stage 1 they can request for their complaint to go to Stage 2.

An Independent Investigating Officer will be appointed to look at the complaint. This will be someone independent who does not work for the council. An Independent Person will also be chosen to ensure that everyone is treated fairly during the investigation.

The Independent Investigating Officer will talk to the complainant and any other people involved. They will see if anything can be done to resolve matters straight away. If not, they will write a report of their investigation and make recommendations of what should happen. This is usually done within 25 working days but it can take up to 65 working days if the complaint is particularly complicated. The Independent Investigating Officer will advise as an investigation progresses if a case will exceed the initial 25 working days.

The Adjudicating Officer (Chief Officer or other nominated person) will write to the complainant to inform them of the report and recommendations.

### **5.3 Stage 3 - Review Panel**

If a complainant is not happy with the Stage 2 investigation they can ask for a review panel meeting.

A group of independent people are appointed to a Panel which will meet to discuss and hear information about the complaint and the investigation. The complainant is invited to attend the meeting and can bring someone to support them or speak on their behalf. The Panel **will not re-investigate the complaint** but will try and find the best way to settle the complaint. After the meeting, the Complaints Team will write to the complainant to tell them how the Council will respond to the findings of the Panel.

## **PART 6: EXTERNAL PROVIDERS**

Children/young people in receipt of services which are provided by external independent, private or voluntary agencies have the same right to complain as any other person receiving a service. Where Children's Services is responsible for the original assessment of need that led to a placement or service and associated funding, then the complainant should, in most instances, have recourse to this complaints procedure.

The Complaints Manager will need to consider whether the issues presented are most appropriately dealt with by the Provider of the service through their internal complaint procedures or, whether the Complaints Team, Commissioning Service or the Regulatory body for the service needs to take the lead responsibility for looking into and responding to the complaint.

## **PART 7: UNREASONABLE OR PERSISTENT COMPLAINANTS**

The overriding majority of people who raise a complaint do so because they have a genuine concern and wish to seek answers and or a resolution to the complaint. However, there are a small number of complainants who, because of the manner in which they present their complaints or the frequency of their contact with the Directorate, hinder consideration of their own complaints.

Where Children's Services encounters un-resolvable and persistent complaints, it should consider all aspects of why this situation may be developing. If the complainant is persisting because their complaints have not been considered in full then the Complaints Manager must address this, normally by invoking the next Stage. However, if the authority has already done so and has demonstrated this to the complainant, then the Complaints Manager should consider whether the complainant is now inappropriately persistent.

### **7.1 Persistent complainants**

Features of a "persistent complainant" may include:

- A person who makes the same complaint repeatedly (with minor differences), but never accepts the outcomes;
- A person who seeks an unrealistic outcome and is determined to persist until it is reached; or
- A person with a history of making other unreasonably persistent complaints – however care must also be taken to consider whether there are new and genuine issues of concern requiring a response.

### **7.2 Unreasonably persistent complaints**

An unreasonably persistent complaint is likely to include some or all of the following:

- An historic and irreversible decision or incident;
- Frequent, lengthy, complicated and stressful contact with staff;
- The complainant behaving in an aggressive manner to staff or being verbally abusive or threatening;
- The complainant changing aspects of the complaint partway through the investigation or Review Panel;
- The complainant making and breaking contact with the Directorate on an ongoing basis; and
- The complainant persistently approaching the Directorate through different routes about the same issue in the hope of getting different responses.

It must be evidenced that the complainant has received the same standard of response as any other service user would in the same circumstances, and that the Complaints Manager can show that they have not discriminated against the persistent complainant.

### **7.3 Action in response**

The following action will only be pursued where absolutely necessary.

Where the relationship becomes unworkable, the Complaints Manager should ensure that he demonstrates that the authority has considered the complaints as fully as is appropriate.

Where the Complaints Team has attempted to move the complaint on, including to the next stage but the complainant has either refused or delayed such progression through excessive objection to the process rather than addressing the substantive issues of the complaint themselves, the Complaints Manager should advise the complainant that this is causing delay and is unreasonable use of the complaints procedure. The Complaints Manager may invite the complainant to meet with him in order to agree how matters can be progressed and concluded.

Where the Complaints Manager decides to treat someone as an unreasonably persistent complainant, they should prepare and present a report to Senior Managers of the service concerned. Approval should be sought from Senior Managers for the Complaints Manager to write to the complainant telling them why they believe the behaviour falls into that category, what action they are taking and the duration of that action. They should also inform the complainant how they can challenge the decision if they disagree with it (this should normally include information regarding the Ombudsman).

Where a complaint is closed and the complainant persists in communicating about it, the Complaints Manager may decide to terminate contact with that complainant.

### **7.4 Restricting access**

The decision to restrict access to the complaints procedure should be taken by the Complaints Manager and should follow a prior warning to the complainant. Any restrictions imposed should be appropriate and proportionate. The options that the Complaints Manager is most likely to consider are:

- Requesting contact in a particular form (for example, letters only);
- Requiring contact to take place with a named officer only;
- Restricting telephone calls to specified days and times;
- Asking the complainant to enter into an agreement about their future contact with the Directorate; and
- Informing the complainant that if they still do not cooperate with the advice given, any further correspondence that does not present significant

new matters or new information will not necessarily be acknowledged, but may be kept on file.

Any new complaints should be treated on their individual merits.

In extreme cases the Chief Officer or Strategic Director for People may consider the following actions:

- Referring the complaint to the Local Government & Social Care Ombudsman before the complaints procedure has been exhausted or
- Advising the complainant that it cannot assist further and informing them of their right to approach the Ombudsman.

## **7.5 Guidance on Unacceptable Behaviour**

This guidance should only apply to a very small number of complainants. It covers the possible escalation of a situation between the Directorate and a complainant from unreasonably persistent behaviour to unacceptable behaviour.

## **7.6 Dealing with Complainants**

The Children Services is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who complain, we will not normally limit the contact complainants have with our offices. However, the Directorate is also committed to the position that members of staff should not have to tolerate behaviour by complainants which is unacceptable. The Children Social Care Services will take action to protect its staff from certain behaviours, including that which is abusive, offensive or threatening.

Where a manager or any member of staff or the Complaints Manager considers that a complainant's behaviour is unacceptable the Complaints Manager will, following discussions with Senior Managers, contact the complainant to tell them why their behaviour is deemed to be unreasonable and ask them to change it. If the unacceptable behaviour continues, the Directorate may wish to take action to restrict the complainant's contact with its offices. In all cases, the Complaints Manager should write to tell the complainant what action is being taken and the duration of that action. The Complaints Manager should also tell the complainant how they can challenge the decision if they disagree with it. This will include the option of writing to the Strategic Director for People, writing to the Chief Executive of the Council, or to approach the Local Government & Social Care Ombudsman.

## **7.7 Terminating Contact**

Where a complainant continues to behave in a way which is unacceptable Children's Services, through its Complaints Manager, may decide to terminate contact with the complainant and discontinue any investigation into the complaint.

Where the behaviour has been risk assessed as being so extreme that it threatens the immediate safety and welfare of staff, the Directorate should consider other options, for example reporting the matter to the Police or taking legal action. In such cases, the authority may not give the complainant prior warning of that action. The Chief Officer or delegated Senior Manager will take the lead role in co-ordinating the response to this situation.

## **PART 8: DATA PROTECTION**

### **6. Data Protection:**

All functions of the complaints procedure must adhere to the requirements of the General Data Protection Regulation, Data Protection Act 2018 and the Freedom of Information Act, 2000. Particular attention is drawn to the need to ensure that a lawful basis has been identified in order to process personal information obtained in relation to a complaint. This would normally be for the purposes of a “public task” or “legal obligation”, users of services may also provide “consent” for information to be used for the management of complaints. Further information relating to the lawful basis the Council relies upon to process personal and special categories of personal data can be found at this link: <https://www.dudley.gov.uk/privacy-disclaimer-statement/>

In order to comply with the requirements of Data Protection legislation, complainants or those complaining on another's behalf will be advised by the Social Care Complaints Team that the formal investigation of their complaints may require access to their personal files. Also, that in order to provide a full response it may be the case that personal information may need to be shared. Complainants, or those complaining on another's behalf can refer to the Council's Privacy Notice page at the link above.

## **PART 9: DIVERSITY & EQUALITY**

This procedure must be open and accessible to all communities. Respect for differences in race, gender, sexuality, disabilities, religion, cultural norms and values will be observed.

If you require any assistance with regards to this document or would like to request an interpreter, large print or audio version in relation to a complaint, please contact the Complaints Team on 01384 814724 or e mail [complaints.socialcare@dudley.gov.uk](mailto:complaints.socialcare@dudley.gov.uk)



## **PART 10: SUPPORTING STAFF**

It is v e r y important that staff feel f u l l y supported in the actions they carry out in relation to these procedures. Sometimes a complaint will be directed at a named member of staff and even the most experienced member of staff can feel concern and anxiety as a result. It must be stressed that a complaint is viewed, registered and responded to as a complaint against the Service.

However, if staff feel this is not the case they should discuss this at the earliest opportunity with their line manager or the Complaints Team.

Members of staff should expect the following:

- The right to be protected from threats, violence or unfounded/malicious allegations and to seek redress should they occur.
- Be treated fairly, and with respect.
- Be informed of the complaint at the earliest opportunity.
- Be given an opportunity to comment and provide information to assist in the response to the complaint.
- Be supported through the process.

Support should be available to a member of staff from line managers who will want to be sensitive to the unsettling effects of having a complaint made about individual members of staff. They will try to support members of staff without compromising or appearing to pre-judge the matter. Managers will want to re-assert to members of staff that the emphasis is on seeking a resolution and not apportioning blame.

Any member of staff is welcome to contact the Complaints Team in order to seek advice or information about the complaint process.

A member of staff also has the option to contact the following:-

- Human Resources
- Staff Counselling Service
- Union/Professional Association

Records of complaints will not be filed on any staff member's personnel file.

Where a complaint results in disciplinary action information will be filed according to those procedures. Members of staff should refer to the staff guide.