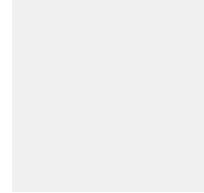


Representations and Complaints Procedure



SCOPE OF THIS CHAPTER

These procedures outline the system for receiving and responding to complaints and representations made by people who are determined as eligible by Sections 24 and 26 of the Children Act 1989. Other complaints procedures, such as the Corporate, 'Tell Us' system, or procedures for adult service users, may be used by those who are not eligible to use the Children Act procedures.

Also see **Confidential Reporting (Whistleblowing) Procedures Procedure**.

In relation to Foster Carers, see **Allegations/Complaints Against Foster Carers Procedure**

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1. Definitions

A complaint is a written or oral expression of dissatisfaction or disquiet in relation to the Local Authority's exercise of its Children's Services functions. 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 any adults, young people, children and carers. Service provision includes the administration, financial and personnel functions of Children's Services, which have been provided, commissioned or purchased by Social Care and Inclusion. These procedures are aimed at services provided to young people and their families; other complaint procedures are available to other service users.

A complainant is a person from whom a representation or complaint is received, whether they are acting on their own behalf or on behalf of another person.

A review panel is a group of three people, at least one of whom is independent, appointed by the Authority to review, at the request of the complainant, a complaint previously considered by the Authority. The functions of the Review Panel as set out in these procedures are due to transfer to the [Regulatory Authority](#) 2006.

Representations are matters other than complaints, which give rise to concern or comment from service users or carers.

2. Objectives

Complaints Procedure should:

1. Provide an effective means of allowing service users or their representatives to complain about the quality or nature of services provided or commissioned by Social Care and Inclusion;
2. Ensure that complaints are acted on and complainants kept informed of the progress and outcome of their complaint;
3. Aim to resolve complaints quickly and as close to the point of service delivery as is appropriate and acceptable;
4. Give those denied a service an accepted means of challenging the decision made;

5. Give Managers and Councillors an additional means of monitoring performance and the extent to which service objectives are being achieved.

3. Policy Guidelines

1. It is the policy of Social Care and Inclusion to record all complaints, including those dealt with and resolved informally by Managers at Stage 1 of the procedure (see **Section 6**);
2. Social Care and Inclusion has a statutory obligation to register all formal complaints received, which cannot be resolved at Stage 1. In line with anticipated guidelines and reporting requirements, all complaints will be recorded using the required format and reported to the Customer Care Team. Children and Young People in contact with Walsall Social Care and Inclusion will be informed of their entitlement to use the statutory complaints and representation procedures, using the available publicity and information leaflets;
3. All complaints will be acknowledged in writing or other appropriate format within five working days. All children and young persons making a complaint will be offered the support of an advocate to assist them throughout the complaint process. The complainant and their advocate will be kept informed about the progress of the investigation and the actions taken to resolve the problem. Complaints should be resolved within twenty working days; where this is not possible, the complainant and the Customer Care Team should be notified, and a revised completion date negotiated with the complainant and/or the service user;
4. Staff will not obstruct the making or investigation of a complaint and will facilitate access to the Complaints Procedure if a service user or their representative wishes to make a complaint;
5. Social Care and Inclusion will publicise the existence of the representations/Complaints Procedure and provide information for the general public explaining the procedure in languages appropriate to the community ethnic population and in large print and Braille or audio tape for visually-impaired people;
6. Respect for differences in race, gender, sexuality, disabilities, religion, cultural norms and values will be observed;
7. If a staff disciplinary matter arises in connection with a complaint or investigation, the Disciplinary Procedures will supersede the Complaints Procedure. The Complaints Procedure should be kept separate from the Grievance and Disciplinary Procedures. A complainant will be informed that the complaint investigation is on hold, but will not be given information about the nature or outcome of any grievance or disciplinary procedures. A complaint investigation will resume, following the completion of other procedures;
8. The identity of a complainant will not be disclosed to staff members involved in any complaint investigation without the complainant's consent;

9. Training, guidance and familiarisation for staff regarding the administration of the Representations/Complaints Procedure and how to receive complaints and facilitate usage of the procedure will be provided as a continuous staff development programme. Consultation will take place with staff at all levels, service users, their representatives and carers, voluntary organisations and other interested agencies.

4. Who may Complain/What may be Complained About

4.1 Who may Complain

Complaints must be made by or on behalf of a qualifying individual and must be in respect of that individual.

Those who qualify in relation to children are:

1. Any child who is **Looked After** or who, although not Looked After, is a **Child in Need**;
2. A Parent;
3. A local authority Foster Carer;
4. Such other person as the authority consider has sufficient interest in a child's welfare to warrant a complaint or representation being considered by them;
5. **Eligible Young People, Relevant Young People** or **Former Relevant Young People**;
6. A young person qualifying for advice and assistance under the Leaving Care procedures;
7. A person aged up to 24 who is or was a former relevant young person or qualified for advice and assistance under the Leaving Care Procedures whom the Authority may still assist in connection with education and training.

Where a complaint is made on behalf of a child or young person, the complaint may be investigated, and consideration must be given to seeking the views of the young person regarding any complaint made on their behalf. Complainants must be told that they will not be given confidential information about the young person, without their permission, or that of someone authorised to act on their behalf.

4.2 What may be Complained About?

The regulations provide that the following new functions may be the subject of a complaint.

Children Act 1989

- The decision by the Local Authority 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;
- Control of parental contact with children in care;

- How supervisors perform their duties when a supervision order is in force;
- Matters not relating to the court but have regard to 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;
- Where social work information or report has gone to court, the child can complain about the accuracy of the report.

Adoption Services (under 2002 act and 2005 regulations)

- Provision of adoption support services insofar as these enable adoptive children to discuss matters relating to their adoption (reg 3);
- Assessments and related decisions for adoption support services (reg 3 (iv & v));
- Placing children for adoption, including parental responsibility and contact issues (s. 18 to 29 of 2002 act);
- Removal of children who are or may be placed by adoption agencies (s.30-35);
- Removal of children in non-agency cases (s.36-40);
- Duties on receipt of a notice of intent to adopt (s.44);
- Duties set out in regulations in respect of: -
 - A local authority considering adoption for a child (pt 3);
 - A proposed placement of a child with prospective adopters (pt 5);
 - Placement and reviews (pt 6);
 - Records (pt 7);
 - Contact.

Complaints and Special Guardianship Support Services

- Financial support for Special Guardians;
- Support groups for children with regard to Special Guardianship;
- Assistance in relation to contact;
- Therapeutic services for children and young people;
- Assistance to ensure continuation of relationship between child and Special Guardian.

5. Operational Guidelines

1. The Customer Care Manager will be the designated officer within Social Care and Inclusion to co-ordinate all aspects of the Complaints Procedure. However, a complaint or representation may be made to any member of staff, the Director or Elected Members by any service user or a person acting on his/her behalf. Whatever the source of the complaint, provision will be made for these to be dealt with under these procedures;
2. Elected Members and Members of Parliament frequently act to seek information on behalf of their constituents. Such an information request should not be seen as a complaint, and should receive a response in line with separate guidance. Following receipt of information, a service user may choose to complain, or ask an elected representative to complain on their behalf;
3. Complaints/representations may be made in person, in writing, by telephone or on the official complaints form, which will be available through public offices and on the intranet. Members of staff must offer assistance to the complainant in writing down the complaint, or recording in an appropriate format, and ensure that children and young people are made aware of how to gain access to an advocate;
4. Members of staff should record brief details of the complaint, the complainant and the service user, if different, on complaints log form (see **Appendix 1**). One copy of the log will be retained on file, the other copy sent to the Customer Care Team for recording and monitoring purposes;
5. The Customer Care Manager will collate statistical data and information for the presentation of such reports as may be required at requisite periods. The Customer Care Manager will prepare an annual report on the workings of the procedure, with particular reference to statutory requirements, and learning from complaints;
6. Complaints about the process or outcome of a **Child Protection Conference** will be dealt with following the process outlined in Paragraphs 5b 25 to 5b 40 of the Child Protection procedures.

6. Procedures

1. Stage One

TIMESCALES: Stage 1 must be resolved within 10 working days (the timescale can be extended to 20 days where the complaint is considered to be complex) of the completion of Stage 1 – the complaint resolution. The start date is defined as the date on which the local authority received the complaint, the date on which an advocate is appointed or the date when it is decided that the person making the representation has sufficient interest to warrant it being considered.

1. **Looked After Children:** There are separate procedures for Looked After Children. See **Section 9, Looked After Children below;**

2. In the first instance, representations and complaints should be notified to the manager responsible for the service, who should contact the complainant or their representative to ascertain the exact nature and details of the complaint;
3. All children and young persons, whether in need or looked after, are entitled to the support of an advocate when making or considering, a complaint. Children and young people should be given information about the Black Country Children's Rights Project as soon as it is evident that they may wish to make a complaint. The Customer Care Team will ask the advocate from the project to make direct contact with a complainant, where it does not appear that the child or young person is already in contact with the advocate;
4. Wherever possible, all attempts should be made to resolve the problem at this stage. The complaint should be recorded, using the required format and a copy sent to the Customer Care Team. See **Appendix 1**;
5. Written acknowledgement of all complaints should be sent to the complainant or representative within five working days. The complaint will be recorded for statistical purposes and coded according to nature of complaint and outcome;
6. If an outcome is achieved which the complainant feels is satisfactory, this should be recorded using the required format, including a record that the complainant has been advised of their entitlement to progress the complaint to the next stage, if they so wish. See **Appendix 2** for suggested paragraph to include at resolution of Stage 1 complaints;
7. A letter should be sent to the complainant/ representative confirming or explaining the outcome and any further action, which may be necessary;
8. The responsibility for ensuring an appropriate investigation and response to complaints at this stage rests with the first line manager, who should ensure that complainants receive a response within twenty working days. When this is not possible, the complainant and the Customer Care Team must be notified and a revised target date for resolution established. The Customer Care Team will ensure that the complainant, the service user, if different, and the relevant Strategic Manager are informed of any Stage 1 complaint that remains unresolved after twenty working days.

2. Stage Two

1. Looked After Children: There are separate procedures for Looked After Children. See **Section 9, Looked After Children below**;
2. If the problem cannot be resolved in this manner, then the complainant should be advised of his/her right to make a formal written complaint and assisted, where necessary, to do this. The written complaint should be forwarded to the Customer Care Manager, who will arrange for an investigating officer to be appointed to look into the complaint;
3. A request to move to the second stage should be made in writing, and sent to the Customer Care Team within 25 working days. If the 25 day timescale cannot be met, the complainant

must be informed of the reasons and an extension up to 65 days from the start date at stage 2 may be agreed;

4. Staff must assist a young person who wishes to make such a written request where necessary. The Customer Care Manager will appoint an investigating officer to review the complaint and an Independent Person to oversee and comment on the investigation and report;
5. The Investigating Officer, in consultation with the Independent Person, will be responsible for contacting the complainant, ascertaining the details of the complaint, interviewing the necessary staff, reading files and collating relevant information. The Investigating Officer will prepare a report detailing the findings and conclusions from the investigation and submit this to the Customer Care Manager, who will forward a copy of the report to the appropriate Strategic Manager to comment on the factual accuracy. Any queries raised will be discussed with the investigating officer prior to any amendments being made to the report. The Independent Person will prepare a brief report commenting on the quality and integrity of the Investigating Officer's report, and on the findings and recommendations. See **Appendix 3, Format for Investigation Report**;
6. The Customer Care Manager will then forward a copy of the final report to the complainant, advising that a copy has also been sent to the Strategic Manager, who will now reply direct to the complainant to advise what action is to be taken in response to the investigating officer's findings;
7. The complainant will be advised of the progress of the investigation and a full response will be made within twenty working days. If this time limit cannot be met, legitimate reasons must be provided and recorded.

3. Stage Three

1. If the complainant is dissatisfied with the response, he/she has the right to request that the complaint be considered again by an independent Complaints Review Panel. The Review Panel, appointed by the Chief Executive in consultation with the Executive Director, should be made up of three people, at least one of whom should be an independent person and should not have been involved previously in investigating the subject under review. Other Panel members are Councillors from the Health and Social Care Scrutiny Panel;
2. The Panel is required to meet within twenty-eight days of the receipt of a request for a review. The Customer Care Manager will advise as to which officer will speak on behalf of the Authority, following discussion with the relevant Strategic Manager. A solicitor will be available from Legal Services to advise the panel on procedural matters;
3. Complainants/representatives should be notified in writing, at least ten days beforehand, of the time and venue of the meeting which, they are invited to attend. They should also be informed of the names and status of the Panel members, and which members are independent persons and which officers of the Authority will be present. All written material to be seen by Panel members must be available to all participants in the process – the complainant, their representative or advocate, the Stage 2 Independent Person and

Investigating Officer and any officers of the authority invited to participate in the Panel process. This must be available ten days before the Panel is due to meet;

4. The complainant should be informed of their right to be accompanied by another person, who is entitled to be present for the whole of the meeting and to speak on their behalf if they wish. This person may not be a barrister or solicitor acting in a professional capacity;
5. The complainant may submit written material prior to the meeting and make oral submissions;
6. The Panel's recommendations should be recorded in writing within twenty-four hours of the completion, and sent formally to the Authority, to the complainant and to anyone acting on his/her behalf;
7. The response to the Panel's recommendations will be made by the Executive Director, and the decision should be communicated in writing to the person who requested the review, and to any other affected or involved person, within twenty-eight days of the date of the recommendation. The letter should explain the reasons for the Authority's decision;
8. The function of the review panel is due to transfer in 2006 to the Regulatory Authority.

7. Monitoring of Procedure

1. A record of all complaints registered and outcomes should be maintained through the Customer Care Team. Time scales will be specified and compliance with these monitored when reviewing the progress of the complaint;
2. Regular reports on the workings of these procedures will be provided to Performance Boards and managers as may be required, to assist in monitoring performance and meeting statutory requirements.

8. Further Action

1. In circumstances where the complainant is still not satisfied with the outcome of an investigation and the Review Panel's recommendations, they will be provided with information about how to approach the Local Government Ombudsman. The Customer Care team may need to make available information or reports for these purposes but officers should take no further part in determining the outcome of the complaint.

9. Looked After Children

1. When a complaint is first received in relation to **Looked After** Children, the Customer Care Manager ensures that the child or young person is seen by a member of the Customer Care Team at the earliest opportunity;

2. This first meeting is to explore with the child the possibilities for resolution of the complaint, which might include mediation as well as consideration at Stage 1 of the complaints procedures;
3. If in the view of the Customer Care Manager and the young person, a more independent review of the complaint is required, the complaint will be considered at the second stage of the procedures. See **Section 6.2**;
4. The formal investigation is carried out by the complaints investigating officer and is overseen by an independent person as required by the Children Act 1989. The investigating officer and independent person see the child at an early stage of the investigation. The child or young person will be offered access to an advocate, as outlined in **Section 5**. The investigating office will complete a report in the required format;
5. The Customer Care Manager discusses each case with operational managers to determine whether there is a need for any immediate action. It may be felt necessary and in the child's best interests, for example, for the child to be moved to another placement;
6. Consideration must be given to the possibility that a complaint contains information which should be investigated under other procedures – child protection, disciplinary or even criminal. The well being and safety of other children in the same placement may also require review. Serious complaints about their care, made by children in foster or residential care may require urgent action, before it has been possible to fully investigate and determine a response to the complaint. Where this is the case, the complaint will be suspended until the other process has been completed. Complaints about the process on outcome of a Child Protection Conference will be dealt with following the process outlined in Paragraphs 5b 25 to 5b 40 of the Child Protection procedures;
7. The Customer Care Manager will keep the child advised and discuss the eventual outcome to determine whether or not the child feels the complaint has been satisfactorily resolved. If not, the complaints process will be re-instigated;
8. The independent person's role is to oversee the investigation so that it is seen to be thorough and fair. They accompany the investigating officer throughout the investigation and listen to the child (or the person making the complaint if this is different). At the end of the process, the independent person produces a separate report which confirms in a brief account, that the investigation has been carried out in a fair and impartial manner, and that the investigator's report provides an accurate and complete picture. See **Appendix 3**;
9. Complaints investigation and reports should be completed within 20 working days of the date on which the complaint progressed to Stage 2. Where this is not possible, the complainant and the Customer Care Team should be notified and a revised target date for completion agreed;
10. In most circumstances, the complainant and their advocate will have access to the full report, as well as to any recommendations and the response to those recommendations provided by the relevant manager. Where the complainant is not provided with the full

report, he or she will be given information about how to contact the Local Government Ombudsman for comment upon this decision;

11. All complaints and their outcomes are formally recorded and the progress of complaints investigated, at the second stage of the procedures, is reported to the Senior Management Board on a regular basis;
12. A guidance leaflet promoting the right to complain has been produced specifically for children Looked After and there is an ongoing training programme for staff.

10. Jointly Provided Commissioned Services

1. Services that have been purchased or commissioned by Walsall Council, to meet any Children Act responsibilities, may be complained about using these procedures;
2. There will be other procedures that an eligible person may use, where, for example, a provider is required to have its own, internal complaints procedures. A complainant may also be entitled to complain to the [Regulatory Authority](#), where that organisation has powers or responsibilities regarding the service complained about;
3. Many services are provided in partnership with the NHS, where different complaints procedures apply. However, where this is the case, the principles of resolution and problem solving are consistent. Complaint entitlements in these circumstances can be complex; staff and service users should seek the advice and assistance of the Customer Care Team in determining what they may be;
4. Where a complaint is made to or about a commissioned service at Stage 1, the complainant retains the right to progress the complaint as outlined in these procedures, if they are not satisfied with the provider's initial response. Some jointly provided services have agreed a protocol for complaint consideration and resolution. Where these exist, they should be followed. The Caldicott Principles, for information sharing, should be applied:
 - Justify the purpose of using confidential information;
 - Only use when absolutely necessary;
 - Use the minimum required;
 - Understand and comply with the law and the permission of the service users established
5. Where it will be necessary to identify staff from different agencies to respond to different aspects of a complaint, the complainant and service user should be given clear information about who will respond to each aspect of the complaint;
6. Where a complaint is made about a service which is provided jointly with Health, the Customer Care Manager will determine, in discuss with Heath colleagues, how the different

aspects of the complaint will be investigated and resolved. The complainant will be kept informed, in line with the principles and policy outlined in these procedures;

7. Where a complainant remains dissatisfied following completion of all stages of any complaint relating to services provide by a Trust, they may seek the assistance of the Health Care Commission, and ultimately, the Health Services Ombudsman.

11. Appendices

Appendix 1 - Complaints Log (See Local Guidance All Children)

[Appendix 2 - Suggested Paragraph for inclusion in Stage 1 response letter](#)

[Appendix 3 - Format for Investigation Report](#)

Appendix 4 - Flow Charts_(See Local Guidance All Children)

[Appendix 5 - Code of Practice for responding to complaint](#)

Appendix 1 - Complaints Log

See Local Guidance All Children

Appendix 2 - Suggested Paragraph for Inclusion in Stage 1 Response Letter

Suggested paragraph for inclusion in any Stage 1 response letter

I hope that you will feel satisfied at this response to your complaint. However, if you do not, you are entitled to seek to progress your complaint to Stage 2 of our procedures. This will involve a further review of the matters you have complained about and an independent investigation. If you wish your complaint to be considered at Stage 2, you should write to the Customer Care Manager within 20 working days of your receipt of this letter stating which aspects of this response you wish to have reviewed.

APPENDIX 3

Format for Investigation Report and guidance for Independent Person

Complaints Format

Separate front cover to include:

Name of Complainant(s)

Name of Service User(s)

Name of Investigating Officer

Name of Independent Person

Statement of complaint

- Summary of complaint – full statement elsewhere in the report

Report

Statement of Complaint

- Agreed with complainant(s) at outset;
- Specific to matter for which authority has responsibility;
- Refers to any linked complaint e.g. Health Trust, YOT.

Desired Outcome

- Within the power of the authority to provide;
- Within the power of the complaint procedure to recommend;
- Include reference to desired outcome which cannot be determined by LA procedures;

Legislation Policy and Procedures

- Legislation under which actions complained about were taken;
- Legislation under which services complained about were provided.

It is helpful for the report to identify clearly what the local authority is required to do under legislation relevant to the complaint.

- Policy or procedural guidance provided to staff on the implementation of legislation;
- Information about how the policy or guidance is provided within the local authority.

Context of the Complaint

- Summary of services provided or refused relevant to this complaint.
- Factual account with reference to dates and source of information.
- Information about investigation, mediation or other form of attempted problem solving either offered, failed or refused.

Investigation

If required, a summary of persons named in report and their work roles. This can help in complex complaints reports.

- Statement of persons interviewed;
- Presence of Independent Person or Advocate;
- Dates and locations of interviews;

- Files, reports and other sources of evidence consulted;
- Investigator must prepare questions or areas of concern in advance of the interview(s). Some authorities will wish to provide these to the interviewees in advance;
- Investigation must focus on the areas of complaint;
- Interviewees should have access to investigator's notes or summary in order to check fact.

Conclusions

- Reference to each aspect of the complaint;
- Reference to evidence accepted or discarded in reaching conclusion;
- Clear statements where investigator has been unable to reach a conclusion;
- Clear distinction between opinion, 'balance of probability' conclusions and substantiated facts;
- Each complaint should be upheld, not upheld or determined as not possible to establish.

Recommendations

- Define actions required to respond to complaint, put matters right;
- Define actions required to avoid a recurrence;
- Identify where an apology is appropriate;
- Identify any suggestions for redress;
- Include time scales for action.

Independent Person comments, if separate report not submitted

Signature

Date

Supplementary report

- Closed section identifying matters internal to the organisation, management action required and systems for ensuring action on recommendations.

INDEPENDENT PERSON

Draft guidance from the Department for Education and Skills- "Getting the Best from Complaints 2004"-on the role of the Independent Person contains the following information:

It is recommended that the Independent Person should provide written comments to the authority **in the form of a brief account**. It should consider whether in his or her opinion the procedures have

been conducted entirely in a fair impartial comprehensive and effective manner, where all those concerned have been able to express their views fully and without duress.

Appendix 4 - Flow Charts

See Local Guidance All Children

Appendix 5 - Code of Practice for Responding to Complaint

Code of Practice for responding to complaint.

Available on intranet.