**Complaints and Representations**

**Scope Of This Chapter**

This procedure covers complaints and representations received in respect of services to children under the [**Children Act 1989 Representations Procedure (England) Regulations 2006**](https://www.legislation.gov.uk/uksi/2006/1738/contents/made).

This procedure does not apply to concerns in relation to a child who may be in need of protection (which must be dealt with under the [**West Yorkshire Safeguarding and Child Protection Procedures**](https://westyorkscb.proceduresonline.com/index.htm)); assessments of potential foster carers and adopters; foster carer registrations and Section 7 and 37 Reports. There are other processes for dealing with these although each complaint should be considered on its own merit. See [**Section 2, What may be Complained About?**](https://bradfordchildcare.proceduresonline.com/p_reps_complaints.html#what_may)

**Relevant Guidance**

[**Effective Complaint Handling for Local Authorities (Local Government & Social Care Ombudsman)**](https://www.lgo.org.uk/information-centre/reports/guidance-notes/guidance-on-effective-complaint-handling-for-local-authorities)

[**Children's Statutory Complaint Process: Guide for Practitioners (Local Government & Social Care Ombudsman)**](https://www.lgo.org.uk/information-centre/news/2021/mar/ombudsman-issues-guide-for-dealing-with-children-s-statutory-complaints)

**Related Chapter**

[**Advocacy and Independent Visitors Procedure**](https://bradfordchildcare.proceduresonline.com/p_advocacy.html)

See also: www.bradfordcft.org.uk/make-a-comment-or-complaint/parent-or-carer

**Amendment**

This chapter was amended in January 2022 to reflect the Children's Statutory Complaint Process: Guide for Practitioners (Local Government & Social Care Ombudsman) - see Relevant Guidance (above).

**1. Who may make a Complaint?**

A representation or complaint may be made by:

1. The child;
2. A parent or person with parental responsibility;
3. A local authority Foster Carer;
4. Any other person the authority considers has sufficient interest in a child's welfare to warrant a complaint or representation being considered by them;
5. Care leavers;
6. Special Guardians;
7. A child in respect of whom a special guardianship order is in force;
8. Any person who has applied for an assessment for special guardianship support;
9. Any child who may be adopted, their parents and guardians;
10. Any person wishing to adopt a child;
11. Any person to whom arrangements for the provision of adoption support services extend;
12. Adopted persons, their adoptive parents, birth parents and former guardians.

Where a complaint is made on behalf of a child, the Complaints Manager should confirm where possible that the child is happy for this to happen and that the complaint submitted reflects their views. However, as long as the complainant is on the list of ‘who can make a complaint’, these individuals can make a complaint in their own right and do not need the consent of the child, (but note they do not have the right to access the child’s personal data).

**2. What may be Complained About?**

A complaint may arise as a result of many things relating to statutory Children's Social Care 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 a child of the application of a local authority policy; and
* Assessment, care management and review.

This, and the list that follows, are indicative only and should not be used as a means of restricting matters about which a complaint can be made and responded to. Where there is any uncertainty about the validity of a complaint the Complaints Manager should seek legal advice as necessary.

Specifically, a complaint may be about the following:

* The decision by the Trust to initiate care proceedings;
* The effect of a Care Order and the Trust’s actions and decisions where a Care Order is made;
* Issues relating to family time between parents and children subject to Care Orders;
* How supervisors perform their duties where a Supervision Order is in force;
* Actions of the Trust regarding applications for and duties in relation to child Arrangement Orders;
* Matters relating to applications for Emergency Protection Orders and decisions relating to the return of children who have been removed;
* The quality or accuracy of social work information or a social work report provided to a court;
* The conduct of a social worker in court.

In relation to adoption, a complaint may be about the following:

* The provision of adoption support services insofar as these enable adoptive children to discuss matters relating to adoption;
* Assessments and related decisions for adoption support services;
* Placing children for adoption, including parental responsibility and contact issues (see [**The Child's Journey - Placement for Adoption**](https://www.proceduresonline.com/oneadoption/oneadoption/p_place_adop.html) (One Adoption));
* Removal of children who are or may be placed by adoption agencies;
* Removal of children in non-agency cases;
* The carrying out by the Trust of its duties on receipt of a notice of intention to adopt;
* The carrying out by the Trust of its duties in respect of
	+ Considering adoption for a child;
	+ A proposed placement of a child with prospective adopters;
	+ Adoptive placements and reviews;
	+ Adoption case records;
	+ Family time; and
	+ Parental Responsibility prior to adoption abroad.

In relation to a Special Guardianship Order, a complaint may be about the following:

* Financial support for Special Guardians;
* Support groups for children to enable them to discuss matters relating to Special Guardianship;
* Assistance in relation to family time with parents for children;
* Therapeutic services for children; and
* Assistance to ensure the continuation of the relationship between the child and their Special Guardian or prospective Special Guardian.

The Complaints Manager has discretion in deciding whether to consider complaints where to do so would prejudice any of the following concurrent investigations:

* Court proceedings;
* Tribunals;
* Disciplinary proceedings; or
* Criminal proceedings.

Before the Complaints Manager decides not to consider or further consider complaints subject to these concurrent investigations, they should consider if it is possible to investigate some or all of the complaint without prejudicing any other investigation. They must write to the complainant explaining the reason for their decision and specifying the relevant concurrent investigation.

Once the concurrent investigation has been concluded the complainant may resubmit their complaint to the Trust.

**3. Time Limit to Complaints**

The Trust does not need to consider complaints made more than 1 year after the grounds to make the complaint arose. In these cases, the Complaints Manager should write to advise the complainant that their complaint cannot be considered, explaining the reasons why. This response should also advise the complainant of their right to approach the Local Government and Social Care Ombudsman.

The time limit can be extended at the Trust’s discretion if it is still possible to consider the representations effectively and efficiently and/or where it would be unreasonable to expect the complainant to have made the complaint earlier, for example, where the child was not able to make the complaint or did not feel confident in bringing it forward in the year time limit.

**4. Informing Children about the Complaints Procedure**

Children must be informed about the Complaints Procedure in a variety of ways suitable to their age and level of understanding. Copies of relevant leaflets should be provided, for example the Children's Guide which is given to children before or upon admission to a children's home. Such information must include an explanation of the role of an advocate and provide contact details for Advocates who can support children to make a complaint.

Information about the complaints procedure may be made available to children and their families via social media approved by the Trust.

Where children or those acting on their behalf express a wish to make a complaint, they should be given any information or advice they require on how to use the Complaints Procedure. Their options must be carefully explained including information and advice on alternative methods for resolving their dissatisfaction. For all complaints made by or on behalf of children, help must always be offered to obtain the services of an Advocate.

Where a child wishes to make a complaint, they should be referred to the relevant manager or to the Complaints Manager.

If the complaint is made by or relates to a child in foster care or residential care, it may also be directed to the Regulatory Authority ([**Ofsted**](https://www.gov.uk/government/organisations/ofsted/about/complaints-procedure)); although they may not be able to accept the complaint unless the local complaints process has been used first.

Children should be reassured that their complaints will be responded to and treated seriously, and must be helped to understand what has happened as a result of their complaint.

**5. Receiving Complaints**

Comments, complaints and compliments may be made orally or in writing, including by e-mail or text.

Complaints must be promptly screened and where appropriate, signposted to an alternative procedure to be dealt with if required.

It is important that complaints are fully recognised and not 'filtered out' of the statutory complaint system, (thereby not recognising complainants' rights to have their dissatisfaction formally considered or investigated).

The law says that councils/Chidlren’s Trusts must act swiftly and efficiently when handling complaints, ensuring there are no unnecessary delays. The emphasis should be on a speedy resolution reached locally wherever possible.

Where a complaint includes an allegation that a child has been harmed, the matter must be directed to be dealt with under the [**West Yorkshire Safeguarding and Child Protection Procedures**](https://westyorkscb.proceduresonline.com/index.htm) and must be referred to the Children's Social Care Referral and Assessment Team for this purpose immediately.

Staff may not deal with complaints relating to their own practice and must pass such matters to their line manager.

**6. Stage One - Local Resolution**

If comments made by users about a service indicate dissatisfaction with the service, the front-line service provider or the line manager receiving the complaint should, if they have the delegated responsibility to do so, try to resolve them quickly. Wherever appropriate, complainants should be asked to agree to a 'local' resolution. In all cases where complaints are received, the Complaints Manager must be informed.

The expectation is that the majority of complaints should be considered and responded to at Stage One.

When the Complaints Manager receives a complaint directly, this will be considered under Stage One and the Complaints Manager will:

1. Acknowledge the complaint within 2 working days, notifying the complainant that they have received their complaint and explaining the timescales within which a response will be sent. The complaints manager should establish whether the complainant has, or requires, an Advocate;
2. Notify the appropriate line manager;
3. Request that the line manager attempt to resolve the complaint within 10 working days and send a copy of the response to the Complaints Manager, together with a brief resume of any points not covered in the letter.

If it is not possible to respond within the above timescale - e.g. where files or records need to be checked or a key member of staff is not available - the line manager (in b) above) must inform the Complaints Manager who will send a holding letter to advise the complainant of the delay. However, the maximum period for a complaint to remain at Stage One is 20 working days, unless the complainant has agreed to an extension of time.

Complaints made by children in foster care or residential care should be recorded as follows:

* Where the complaint relates to the child's placement in residential care, the fact that the complaint was made and resolved should be noted in the home's Daily Log, and a summary of the complaint and the manner in which it was resolved should be recorded in the Complaints Log and in the child's Daily Record. Where the complaint involves sensitive personal information, such details should not be held in the Complaint Log, which is a public record. The manager should consult the complainant to ensure that the matter was dealt with appropriately before countersigning the Complaints Log;
* Where the complaint relates to the child's foster home, the foster carer should record brief details in the child's Daily Record. The foster carer should inform the supervising social worker as soon as practicable as well as, where appropriate, the child's social worker. The complaint should be recorded in the Complaints Log held by the Fostering Service and where appropriate in the child's electronic record;

The manager for each team or service has to keep a record of complaints dealt with at Stage One and their outcomes. This record should then be forwarded to the Complaints Manager.

If the matter cannot be resolved to the complainant's satisfaction within 20 working days, they must be advised that they have a right to proceed to Stage Two and given assistance to do so as necessary. The complainant may, however, agree to extend the deadline for the Stage One process.

**7. Stage Two - Investigation**

Consideration of complaints at Stage 2 is normally achieved through an investigation which is conducted by an investigating officer and an independent person. Stage 2 commences either when the complainant requests it (even though the Complaints Manager may feel the complaint has been dealt with under Stage 1), or where the complainant and the Trust have agreed that Stage 1 is not appropriate.

Usually, the issues raised will be those expressed in Stage 1, but it is possible that the complainant may add further issues to their complaint at Stage 2. The Stage 2 investigation should be proportionate to the issues complained about and not, for example, reviewing the council’s entire involvement with the child or young person.

The Complaint's Manager should make a decision whether 'new complaints' should be dealt with under Stage 1 or within the Stage 2 process. It may be preferable to deal with 'new complaints' alongside existing ones in order that a consistent approach is taken to the complainant's matters.

There is no time limit for a complainant to ask for a complaint to move to Stage 2, although the guidance encourages this to be done in 20 working days. The Complaints Manager should consider whether, in each case, there are good reasons for any delays by the complainant and not just rely on a pre-determined deadline set by the Council's procedure. The primary consideration should be: 'what is the best way for resolving the complaint?'

**Action on Receipt of Complaint**

Upon receiving a complaint, the Complaints Manager will:

1. In some circumstances, contact the complainant direct to discuss whether it may be possible to mediate or negotiate a settlement;
2. Record the complaint. At this stage the Complaints Manager will decide whether the complaint should be investigated under this procedure or whether it should be referred elsewhere, for example under staff disciplinary procedure;
3. Ensure that a copy of the complaint is sent to any staff member named in it and to that person's line manager, unless to do so would prejudice the investigation of the complaint in which case the Complaints Manager should inform the relevant senior manager of this decision;
4. Appoint and prepare terms of reference for an Investigating Officer (who is not involved in the management of the services to the child concerned) and an Independent Person (who cannot be an employee or an elected member of the authority) to the investigation. The Independent Person is appointed to shadow the Investigating Officer. Under the arrangement, the Independent Person accompanies the Investigating Officer throughout the investigation and may see the child concerned alone if considered necessary;
5. Acknowledge receipt of the complaint within 7 days, and advise the complainant of how the complaint is being dealt with, the timescales and the name of the Investigating Officer.

The Complaints Manager and the Investigating Officer should consider whether it is necessary to halt a particular aspect of the case pending investigation, for example where there are ongoing Court proceedings.

**The Investigation**

Upon being appointed, the Investigating Officer will:

1. Conduct an investigation, interviewing the complainant and staff as appropriate;
2. Produce a report making recommendations about action to be considered;
3. Send a copy of the report to the Complaints Manager bearing in mind that this, together with the local authority's response, needs to be sent to the complainant within 25 working days of the receipt of the complaint. If this timescale is not possible, the Investigating Officer should consult with the Complaints Manager and agree a timescale for extension. In any event, this extension must not exceed a full response to the complaint within 65 working days.

The Complaints Manager will inform the complainant of this agreement and the reason for the extension to the timescale, and wherever possible obtain the complainant's agreement to the new timescale;
4. Staff and carers need to be aware that it is a legal requirement upon the authority to undertake investigations when a complaint is made. It is therefore essential that they cooperate with the investigation and provide information to the Investigating Officer through their verbal responses to questions and access to written material.

**Action Following Investigation**

Upon receiving the Investigating Officer's report and any supplementary report provided by the Independent Person, the Complaints Manager will:

1. Send a copy of the report(s) to the relevant manager of the service complained about and, if the complaint concerns front-line service providers, the staff themselves;
2. Ask the senior manager for their adjudication, in consultation with others as necessary, and what action the Trust will be willing to take in relation to the investigation's recommendations;
3. Send a copy of the Investigating Officer's report, any supplementary report prepared by the Independent Person and the Trust’s response to the report(s) to the complainant. This must be sent within a maximum of 65 working days of receipt of the complaint;
4. Advise the complainant of their right to submit a request to the Complaints Manager within 20 working days that the complaint proceed to a Stage Three Review Panel;
5. Monitor the outcome of the complaint in terms of consumer satisfaction with the process and the eventual outcome, and the implications for future service delivery and training.

**8. Stage Three - Review Panels**

If the complainant is not satisfied with the outcome of the complaint, they have 20 working days to ask for the response to be reviewed by a Review Panel. The request should be made to the Complaints Manager and acknowledged in writing within 2 working days. The Complaints Manager will ensure a Review Panel is set up and meets within 30 working days of the complainant's request being made.

The Review Panel must be made up of 3 independent people, who must not be:

1. Employees of the Trust;
2. Elected members of the authority;
3. A spouse or partner of either of the above.

One member will be appointed as the Panel Chair. It is good practice that the Chair should not have been employed or an elected member of the authority within the last 3 years.

The complainant should be notified of the Panel's date and location in writing at least 10 working days before the Review Panel meets and be invited to attend. The complainant should also be informed of their entitlement to be accompanied by another person and for this person to speak on their behalf.

Those persons involved with the investigation at Stage 2 (e.g. the Investigating Officer, and the Independent Person) should also be invited to attend.

The Chair should make the final decision on attendees (including asking the local authority to make specific members of staff available to provide specialist advice or opinion).

Panel papers should be sent to Panel members and other attendees as soon as these have been agreed by the Chair and no later than 10 working days before the date of the Panel. These should normally include: information on Stage 1 (as relevant), the Stage 2 investigation report(s), the local authority's adjudication, any policy, practice or guidance information relevant to the complaint, and any comments that the complainant has submitted to the Panel. The papers should also include information on any local practice around Panels, such as conduct, roles and responsibilities.

The Review Panel's recommendations should be recorded in writing and copies sent to the complainant and the Director of Children's Social Care within 5 working days.

The Director of Children's Social Care must respond to the recommendations of the Review Panel and make the decisions known to the complainant within 15 working days, explaining the authority's decision and reasons.

In terms of the Complaints Procedure, there is no further action that the complainant can take to progress a complaint.

Complainants should be advised of their right to make representations to the Local Government and Social Care Ombudsman if they are still not satisfied.

**Appendix 1: Key Lessons from Ombudsman Investigations**

**Do**

* Invest time at the outset to decide if a complaint should be considered under the statutory complaints procedure or through an alternative procedure;
* Speak to the complainant at stage one to define their complaint and manage their expectations of what an investigation might achieve;
* Keep the complainant informed of any delays;
* Keep detailed records at each stage of the investigation, including any decision not to use the statutory complaints procedure or not to accept a late request to escalate a complaint;
* Signpost to the Ombudsman once a complaint completes the statutory complaints procedure, or if the council decides not to investigate a complaint.

**Do not**

* Refuse to investigate a complaint at stage two or three due to a lack of resources or because the council does not think there is merit to the complaint;
* Switch complaint procedures part-way through. If a council accepts a complaint under the statutory complaints procedure it must complete this to the complainant's satisfaction;
* Make an early referral to the Ombudsman if the criteria set out in the guidance have not been met.

From: [**Children's statutory complaint process: Guide for Practitioners (Local Government & Social Care Ombudsman)**](https://www.lgo.org.uk/information-centre/news/2021/mar/ombudsman-issues-guide-for-dealing-with-children-s-statutory-complaints).