



**Telford & Wrekin**  
**Co-operative Council**

**Protect, care and invest  
to create a better borough**

# **Resolving Complaints and Improving Services**

## **Policy & Procedure for Telford and Wrekin Council Children's Services**

## Contents:

<b>Section 1 - Scope of the Representations and Complaints Procedure</b>	<b>3</b>	
1	Our Policy on Complaints	3
2	Defining representations and complaints	4
3	Legislation	5
4	What may be complained about?	5
5	Who can complain under this procedure?	6
6	What is excluded from this procedure?	8
<b>Section 2 - How the Process Works</b>	<b>11</b>	
7	How the process works	11
8	Improving services following complaints	20
9	Complaints about services provided under contract by independent providers	20
10	Complaints which are partly about the National Health Service	22
11	Unacceptable behaviour and vexatious complainants	23
12	Corporate Complaints	25
13	Enquiries from members of parliament	25
14	Compliments and Comments	26
15	Performance Monitoring	26
16	Further Information	27
17	Flowchart - Statutory complaints process for Children's Social Services	28

## Section 1 - Scope of the Representations and Complaints Procedure

### 1. Our Policy on Complaints

1.1 This policy and procedure on complaints, compliments and comments applies to social services provided by the Service Delivery Units responsible for the following areas:

- Safeguarding & Looked After Children
- Children's Placements (Fostering Service)
- Children with Disabilities
- Work with children assessed as being in need

Complaints about the Joint Adoption Service, which is operated by Shropshire Social Services for both of our authorities, will be handled by Shropshire Council.

1.2 We are committed to ensuring that the services for which the Service Delivery Unit is responsible meet the highest quality standards. This applies whether we provide the service directly, or purchase it from a contractual provider.

1.3 We know that things sometimes go wrong with services, and that staff and managers sometimes make mistakes. When this happens, we believe it is important to put things right, as rapidly and as effectively as possible. Through this complaints procedure, we are committed to giving the children who use our services, their advocates, carers and relatives, members of the public, staff, managers and the providers of our contracted services a clear understanding of how we will do this.

1.4 In the same way, we believe that all comments and compliments from services users and their representatives about the services which we provide, need to be acknowledged, considered and acted upon.

1.5 In order for the procedure to be effective, we think it is crucial for the children who use our services, their advocates, carers and relatives, members of the public, staff, managers and providers of our contracted services to be well informed about how it operates and about what rights and obligations it entails. Recognising that we serve a diverse community, we will make details of the procedure available on request in a range of formats, in order to maximise its accessibility and to ensure that no individual or group is prevented from using and benefiting from it.

1.6 We will ensure that children and young people who are dissatisfied with aspects of the services provided can be offered an advocacy service which works effectively on their behalf within this and other related processes.

1.7 Whenever we deal with a comment or a complaint, we will look critically at the service we provide, to see what lessons we can learn. We will give people who make comments or complaints clear and prompt responses to the matters they have raised and make whatever changes are needed to put things right, whenever we can. If this is not possible, or if we think that the complaint is not justified, we will provide a full written explanation. In all cases, we will provide clear information about how to take

the concerns raised in the complaint further, should the person making the complaint remain dissatisfied with the Council's response.

- 1.8 As a provider and purchaser of services, we are committed to learning lessons from the complaints we deal with, and to making whatever changes in our practice, policies and procedures are necessary to improve services and to prevent further dissatisfaction.
- 1.9 In view of the number of different procedures which could be applicable when concerns are raised about children's services (e.g. child protection procedure, ICB complaints procedures, contractual providers' complaints arrangements, disciplinary processes, criminal investigations etc) and the possibility of confusion among people who use services, the Customer Relationship Team will ensure that sound decisions are taken about which procedure should take precedence. Above all it is crucial that children and other people making complaints are provided with clear information about the possible interplay of different procedures and about any decision to suspend action under this procedure, pending the outcome of action taken under another process. At the point when the other process comes to a conclusion, the complainant is entitled to request that any remaining issues of concerns are taken up through this procedure.
- 1.10 Recognising the widespread perception that making a complaint may result in reprisals or a deterioration in the service provided, we will seek to ensure that all members of our staff and management have a positive and informed view of complaints and of complainants' entitlements, and will give whatever help is necessary to enable people to get due benefit from the procedure.
- 1.11 We positively welcome and value complaints, and so we will publicise this procedure as widely as possible, in ways that suit different sections of our diverse community. We will also offer people whatever assistance they need to get benefit from the process, and send out complaints publicity material and correspondence in accessible and preferred formats and languages, wherever possible. We accept that some children and adults are not confident in using the written word, and that we sometimes need to use other ways to make the complaints process meaningful and useful.

## **2. Defining representations and complaints**

- 2.1 At Telford and Wrekin Council we welcome all feedback from customers this is because it helps us improve the way we do things and to learn from things that have gone wrong.
- 2.2 The intention of this document is to set out the statutory procedure for a customer who is likely to want to make representations, including complaints, about the actions, decisions or apparent failings of our Children's Social Care Services and to allow any other appropriate person to act on their behalf.
- 2.3 We define a complaint as

*‘A statement, written or verbal, which expresses dissatisfaction about any aspect of the social services provided by or on behalf of the Service Delivery Units responsible for services to children.’*

- 2.4 We realise that it would be unrealistic to register every such statement within the procedure, particularly in cases where it is possible to deal with the matter of concern there and then. It would similarly be undesirable for simple and easily resolved matters, which have no wider significance beyond the circumstances in which they arose, to be fed into the relative formality of this procedure. Such matters are best recorded in the child or young person’s case file.
- 2.5 It is nevertheless the complainant’s right ultimately to decide whether or not the matter of concern should be registered within this complaints procedure. It is crucial therefore that clear information about the procedure is made available in advance, so that complainants can make an informed decision about whether they want to make a complaint using this procedure.
- 2.6 Representations may not always be complaints; they might also be positive remarks or ideas that require a response from the Local Authority. Enquiries or comments about the availability, delivery or nature of a service which are not criticisms are also welcomed and can help us to improve our services.

### **3. Legislation**

- 3.1 The Children Act 1989 defines the representations procedure as being for ‘representations (including complaints)’. The Children Act 1989 Representations Procedure (England) Regulations 2006 came into force on 1 September 2006: they are referred to in these procedures as the Regulations.
- 3.2 This procedure may also be considered in conjunction with the Children Act 1989 and Adoption and Children Act 2002.

### **4. What may be complained about?**

- 4.1 Section 26 (3) of the Children Act, 1989 provides that all functions of the Local Authority under part 3 of the Act may form the subject of a complaint. A wide range of issues may give rise to complaints under this procedure including;
- Unwelcome or disputed decisions
  - Concern about the quality or appropriateness of a service
  - Delays in making decisions or in providing services
  - Assessments, case management and review
  - Delivery or non-delivery of services
  - Quantity, frequency, change or cost of a service
  - Attitude or actions of staff members who represent Telford and Wrekin Council
  - Application of criteria for eligibility or assessment
  - The impact on a child or young person of the application of a local authority policy; and

4.2 In addition, the regulations and guidance which came into force from 1 September 2006 refer to a number of new functions which may be the subject of a complaint.

These are;

- Part 4 of the Children Act 1989 including decisions to initiate care and supervision orders (Section 31), the effect of a care order and the authority's actions where one is in force (Section 33), control of parental contact with children in care (Section 34) and the performance of supervisors implementing a supervision order (Section 35).
- Part 5 of the Children Act 1989 including the authority's application for and implementation of child assessment orders (Section 43) and emergency protection orders (Section 44).
- A range of adoption-related functions (please note: complaints about many of these will be handled by Shropshire Council, who manage the Joint Adoption Service).
- A number of functions arising under the Special Guardianship Regulations 2005.
  - 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.

4.2 Although the complaints procedure cannot overturn a decision of the court, the new arrangements allow for complaints about the quality and accuracy of court reports. In the event of such a complaint being upheld, the complainant will be notified in writing of what action the authority will take with regard to the court action.

## **5. Who can complain under this procedure?**

5.1 Section 26(3) and section 24D of the Children Act, 1989 and section 3(1) of the Adoption and Children Act, 2002 require the local authority to consider representations including complaints made to us by:

- any child or young person (or a parent of his or someone who has parental responsibility for him) who is being looked after by the local authority or is not looked after by them but is in need;

- Advocates and representatives of any of the above children and young people (providing that it has been established as far as possible that the advocate or representative is reflecting the child or young person's own wishes);
- any local authority foster carer (including those caring for children placed through independent fostering agencies), who want to comment or complain about the service being provided to a child or young person for whom they are caring;
- children leaving care;
- Special Guardians;
- a child or young person (or parent) to whom a Special Guardian order is in force;
- any person who has applied for an assessment under section 14F(3) or (4) of the Children's Act 1989;
- such other person as the local authority consider has sufficient interest in the child or young person's welfare to warrant his representations being considered by them.

5.2 Complaints about the Joint Adoption Service, which is operated by Shropshire Social Services for both of our authorities, will be handled by Shropshire Council and complaints received will be forwarded to them to handle

- any child or young person who may be adopted, their parents and guardians;
- persons wishing to adopt a child;
- any other person whom arrangements for the provision of adoption services extend;
- adopted persons, their parents, natural parents and former guardians.

### 5.3 **Complaints made on behalf of a child**

5.3.1 Where a complaint is received from a representative acting on behalf of a child or young person, we will normally confirm where possible that the child or young person is happy for this to happen and that the complaint submitted reflects his/her views.

5.3.2 The local authority has the discretion to decide whether or not the representative is suitable to act in this capacity or has sufficient interest in the child's welfare. If our Complaints Manager considers that the representative does not have sufficient interest, he will notify the representative in writing, explaining that no further action will be taken.

## 5.4 **Complaints relating to a child**

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

## 6. **What is excluded from this procedure?**

6.1 Complaints will not usually be registered more than a year after the matter giving rise to concern arose. Nevertheless, the Council has discretion to waive this time limit if:

- It would not be reasonable to expect the complainant to have made the complaint sooner, and
- It is still possible to deal with the complaint effectively and fairly.

Where the complaint falls outside of the time limit then the Complaints Manager must also decide whether the complaint can be considered effectively and efficiently. If the Complaints Manager considers that the complaint cannot be considered within these procedures then the complainants will receive a written explanation. The letter will include information about being able to approach the Local Government and Social Care Ombudsman (LGSCO) to consider the decision.

If an anonymous complaint is received, it will as far as possible be registered as usual under the corporate complaint procedure, and notified to the relevant Service Manager. This is particularly important where the anonymous complaint contains information which may need to be considered within the procedure for the Protection of Vulnerable Adults. It is obviously not possible to acknowledge and respond to anonymous complaints, and telephone callers who prefer to withhold their identity will be reminded of this. The substance of any such complaint will however be addressed by the relevant manager.

## 6.2 **Relationship to other Policies and Processes**

A complaint will not be considered under this procedure where:

1. It has been withdrawn by the complainant, and the Council has confirmed this in writing.
2. It has already been considered at all stages of this or an earlier statutory complaints procedure, or by the Local Government Ombudsman.



3. It is more suitable to be dealt with under the authority's corporate complaints procedure (see section 12 below).
4. The authority has been informed in writing that legal proceedings are being taken or will be taken about the matter of concern.
5. Disciplinary action has started or is about to start regarding the matter which gave rise to the complaint.
6. The authority has been informed that criminal proceedings are pending, or that an investigation which could result in criminal proceedings has started with regard to the substance of the complaint.

6.3 In the circumstances described above in points 4, 5 or 6 in the previous paragraph, the Customer Relationship Team will identify any aspects of the complaint which can proceed without compromising the other investigative process, and inform the complainant that these will be dealt with according to this procedure. The complainant will also be informed that s/he is entitled to resubmit the other parts of his/her complaint when the other proceedings are complete.

6.4 This procedure may be suspended if any of the following procedures are invoked:-

- a. Disciplinary and Grievance Procedures
- b. Child Protection Procedures
- c. Harassment Procedures
- d. Police Investigation- Criminal

6.5 This procedure also has implications for the purchasing of services. Independent Service Providers should have a suitable Complaints Procedure and customers using these services should be advised that they have access to the authority's own procedure if necessary when their services are provided by, or on behalf of, the local authority.

## 6.6 **Compensation Claims**

When a complaint gives rise to a potential or actual insurance claim; usually this involves the customer suffering loss or injury arising out of an alleged negligent act by the Council, its employees or agents. Such complaints will be forwarded to the Councils Insurance Team and the customer informed.

## 6.7 **Complaints concerning staff from other agencies**

The complaint will be recorded by the Customer Relationship Team. The Customer Relationship Team will seek permission from the customer to pass the complaint to the relevant person who has the responsibility for managing complaints for the other agency.

## 6.8 **Deferring or Freezing Decisions**

Customers must not be discouraged from making their complaints. The status of the provision of a service which is subject of complaint would not usually be subject to change, delay, suspension or withdrawal while a complaint is being dealt with under this procedure.

However, decisions may be frozen when a complaint has been made about such a decision/action which could have a significant impact on the life of an individual. The decision would be considered by the relevant operational manager and unless good reason could be shown for doing otherwise, the decision would be frozen pending the outcome of the complaint. The manager would be expected to record the reasons for not freezing a decision and to provide a copy to the Complaints Manager.

The investigation of complaints must preserve confidentiality and reflect the Council's commitment to equal opportunities and anti-discriminatory practice.

6.9 Whenever a complaint is received and any of the above exclusions apply, we will (unless the complaint has been resolved within 24 hours) acknowledge the matter in writing, explaining why the relevant elements will not be considered within this statutory complaints process. We will as far as possible continue to deal with any other elements of the complaint which are not affected by these exclusions.

6.10 If an anonymous complaint is received, it will as far as possible be registered as usual, and notified to the relevant Service Delivery Manager. This is particularly important where the anonymous complaint contains information which may need to be considered within the procedure for the safeguarding of Children. It is obviously not possible to acknowledge and respond to anonymous complaints, and telephone callers who prefer to withhold their identity will be reminded of this. The substance of any such complaint will however, be addressed by the relevant manager or will be dealt with under Children's Safeguarding procedures.

## Section 2 - How the Process Works

### **7. How the process works**

- 7.1 This section details the procedure for handling all representations, which must be registered with the Customer Relationship Team.
- 7.2 The procedure is designed to give children, young people and others prompt and considered answers to the matters that they raise, to ensure that appropriate action is taken in response to any failures or shortcomings identified during the process and to learn wider lessons where matters have gone awry in individual cases. In addition, the procedure provides the Council with valuable information about the views of children, young people and their families and representatives on the services it provides.
- 7.3 The procedure for dealing with complaints is based on the Children's Act 1989 Representations Procedure (England) Regulations 2006, and the related guidance issued by the Department for Education and Skills entitled 'Getting the Best from Complaints'.
- 7.4 The procedure consists of three separate stages:-
- Stage 1 (informal resolution)
  - Stage 2 (formal investigation)
  - Stage 3 (review Panel)
- 7.5 Whenever a complaint is received from a child or young person, the Customer Relationship Team will notify the Rights & Representations Service of the need to offer the complainant an advocacy service, within the remit of the 2004 Advocacy (Services & Representations) Regulations. A child/young person whose complaint is being considered within this procedure is entitled to advocacy services throughout the process. Subject to the approval of the child/young person, all correspondence with regard to the complaint will be copied to the advocate, who will be entitled to accompany the complainant at any meeting or interview about the complaint, which the complainant attends.
- 7.6 All letters of response which are sent to complainants at any stage of the process will contain a standard section notifying them of how to move to the next stage of the procedure, should they wish to do so.
- 7.7 All complaints are registered by the Customer Relationship Team, which is managed separately from the operational services and therefore enjoys a measure of independence. The Customer Relationship and Quality Assurance Team Leader (acting as Complaints Manager, within the meaning of the regulations and guidance) is responsible for the management of this complaints process.
- 7.8 The Customer Relationship Team is committed to working for the effective and sustainable resolution of complaints, and for outcomes which please the complainant, as far as possible. We will therefore regard all avenues as open in

trying to resolve people's concerns, regardless of the stage at which the complaint is being handled.

7.9 If a complaint is about a proposed change to a care plan, service or placement, it will generally be appropriate to defer the change or decision until the complaint has been considered. A decision to defer will be discussed between the Customer Relationship and Quality Assurance Team Leader and the respective Service Delivery Manager. If no agreement can be reached, the respective Director, and if necessary the Director will be consulted.

7.10 All activity undertaken within this procedure, complaints received, responses issued, compliance with time scales will be recorded by the Customer Relationship Team for the purposes of accountability and service improvement.

### 7.11 **Stage 1 (Informal Resolution)**

7.11.1 In most cases, we believe it is desirable and possible to resolve complaints promptly, with the minimum of formality and as close as possible to where they arose. This first stage of the procedure therefore requires a response from the Service Delivery Manager for the service concerned.

7.11.2 We are pleased to receive complaints by any means, whether on a complaint form, by letter, by telephone, email or from people calling personally to the Customer Relationship Team (open 9am – 5pm on weekdays). If there is any lack of clarity as to the nature of the complaint, staff from the Customer Relationship Team will contact the complainant and offer a personal meeting or visit, in order to clarify the matter.

7.11.3 For children in local authority residential care where the complaint concerns the operation or management of the home and not the actions of other parts of the local authority. The Customer Relationship Team will inform complainants that they can, if preferred, have their complaints referred to the Care Quality Commission (CQC) and also provide details. Complainants will also be informed of their rights to have their complaints considered within the Residential Homes or Care Agency's own Complaints Procedures as well as the CQC. (The CQC's brief concerns all operations which have to be registered by them). However it would normally be expected by CQC that where an agency provides a service on behalf of the Council that that agency has an opportunity to first redress any mistakes.

7.11.4 Wherever and however the complaint is received within the Council, it is for the Customer Relationship Team to register it formally and to send a letter of acknowledgement to the complainant with 2 days of receiving the complaint, with details of the complaints procedure attached. The acknowledgement will specify which Service Delivery Manager will deal with the complaint, and by which date a written response will be provided. The letter will also inform the complainant of his/her right to request progression to the next stage, if the matter is not resolved within the specified time scale. It is imperative that any complaint received elsewhere in the Council is immediately notified and sent to the Customer Relationship Team for registration.

- 7.11.5 The Customer Relationship Team will pass details of the complaint to the appropriate Service Delivery Manager, at the same time as the acknowledgement is issued to the complainant. It is the Service Delivery Manager's responsibility to ensure that the matters of concern are addressed and resolved within the specified timescale, even though this role may be delegated to another manager. It is nevertheless the Service Delivery Manager's responsibility to send the letter of response.
- 7.11.6 In dealing with the complaint, the Service Delivery Manager or his/her delegate will wish to consider a number of perspectives. As well as referring to case records, speaking to staff and ensuring that legal and procedural requirements have been followed, s/he will give serious consideration to making personal contact with the complainant, at least by telephone but preferably by means of a face-to-face meeting. Stage 1 offers the opportunity to enter into a range of problem-solving approaches such as negotiation, mediation and reconsideration, each of which depends on active engagement with the complainant.
- 7.11.7 The time available for the Service Delivery Manager or his/her delegate to consider and try to resolve the complaint to the complainant's satisfaction is a maximum of 10 working days from the date on which the complaint was received in the Customer Relationship Team, unless:
- The complainant has agreed a specified longer timescale (subject to a maximum of 20 working days)
  - There is an unavoidable delay in appointing an advocate, in which case the timescale commences on the date on which an advocate is appointed.
  - There is a delay in determining whether the complainant has sufficient interest to justify the complaint being considered, in which case the timescale commences on the date on which this is determined.
  - It is agreed between the respective Service Delivery Manager and the Complaints Manager that the complaint is complex, in which case a maximum of 10 additional working days is available, providing this is clearly notified to the complainant.
- 7.11.8 As soon as possible after the conclusion of the consideration and resolution process, the Service Delivery Manager will send the complainant and any appointed advocate a letter of response, confirming any agreement made, setting out the judgments made on the matters raised by the complainant, explaining any actions or changes which will result, or explaining why the complaint cannot be upheld. If it is found that mistakes have been made, the Service Delivery Manager will offer an apology and set out the means by which these will be corrected, and matters put right for the complainant. This letter must be sent as soon as possible and in any event within 5 working days of the resolution of the complaint.
- 7.11.9 The Service Delivery Manager's letter of response will include a standard paragraph, setting out how the complainant can take the matter to the next stage of the procedure in case s/he remains dissatisfied. The response letter must be

copied to the Customer Relationship Team for collation with other complaints records.

- 7.11.10 Any delay which is likely to result in failure to comply with the specified time limit for a Stage 1 response must be explained in advance to the complainant or his/her representative. This will be undertaken by the Customer Relationship Team who must gain the complainant's agreement to the delay. In such circumstances, the Service Delivery Manager needs also to set the date by which the response will be provided and notify this to the Customer Relationship Team to enable them to update the customer.
- 7.11.11 If the matter is not resolved within the timescale specified in 7.11.7, the complainant or the advocate is entitled to request that the complaint be independently investigated at Stage 2. This request may be made verbally or in writing.

## 7.12 **Stage 2 (Formal Investigation)**

- 7.12.1 A person whose complaint was not resolved at Stage 1 within the specified timescale is entitled to seek progression to the second stage of the complaints process. S/he will be required to make a request for progression to Stage 2 within 25 days of the date when the Stage 1 response was issued or within 20 days of the date when the Stage 1 response was due (whichever is earlier).
- 7.12.2 Occasions may also arise when a complainant or his/her representative requests a formal investigation at the outset, or when it is clear from an early stage that the nature or seriousness of a complaint is such that it is unlikely to be resolved informally. In these cases, it may be appropriate to leave out the Stage 1 process, subject to agreement between the complainant and the Customer Relationship Team.
- 7.12.3 At the beginning of the Stage 2 process, it is the responsibility of Customer Relationship Team staff to engage with the complainant and advocate to draw up an agreed written statement of complaint, setting out in detail the various areas of concern and dissatisfaction, in a manner which is amenable to investigation. This can also be completed by the Independent Investigator when they meet with the complainant before commencing the investigation. The statement should also incorporate details of the outcomes which the complainant is seeking which will resolve the concerns raised in the complaint. Before the start of an investigation, the statement must be signed and dated by the complainant, as an authentic and full account of their concerns and wishes.
- 7.12.4 The Customer Relationship Team maintains a pool of Independent Investigators for the specific purpose of undertaking formal investigations of complaints at Stage 2 of the complaints process. Investigations will generally be commissioned from members of this pool, none of whom has any operational connection with Telford & Wrekin Council. Any exceptional departure from this arrangement (for example, because no member of the pool is available at the time required) will be fully discussed and agreed with the complainant.
- 7.12.5 It is a requirement in all complaints which are investigated at Stage 2 for an Independent Person to be appointed to participate in the investigation, working

closely with the Investigator to ensure that the matter is investigated fairly, fully, promptly and the interests of the child are addressed. The Independent Person submits a brief report at the end of the Stage 2 process specifically addressing these issues and this is shared with the complainant see 7.12.7.

- 7.12.6 The Independent Investigator is responsible for undertaking a full impartial investigation of each element of the complaint and for submitting a draft report to the Customer Relationship Team in sufficient time to ensure that the required timescale will be met (see 7.12.11 below). It is expected that Investigators will refer in undertaking investigations to Annex 2 of 'Getting the Best from Complaints' published by the Department for Education and Skills, which provides guidance on good practice for Investigators.
- 7.12.7 When the draft investigation report has been received, the Customer Relationship Team sends it to each staff member who was interviewed during the investigation, unless there is a compelling reason not to do so, for instance because of confidentiality or data protection considerations. This part of the process, which normally takes a maximum of five working days, is intended to ensure that the report is factually accurate. It is not intended to give rise to debate about the Investigator's interpretations or conclusions. Any observations relating to accuracy from the staff members concerned are submitted to the Investigator who considers whether they should be incorporated into the final report.
- 7.12.8 As soon as the Customer Relationship Team receives the final report signed by the Investigator, it is passed to the respective Director who is responsible for sending the formal response to the complainant and for attaching a copy of the investigation report and the Independent Person's report.
- 7.12.9 The letter of response which is sent to the complainant will comment on the independent investigation and its findings. It will incorporate an apology in respect of any elements of the complaint which have been upheld or with regard to the complaint as a whole. It will set out in appropriate detail the actions which will be taken within the Service to implement the necessary changes and learning points which arise from the investigation report (see also Section 8 below). The Customer Relationship Team will take any necessary steps to ensure, with the advocate, that the complainant understands the response provided and is supported as far as possible.
- 7.12.10 The letter of response will include a standard paragraph, which sets out how the complainant can take the matter to the next stage of the procedure, in case s/he remains dissatisfied. A copy of the response letter must be sent to the Customer Relationship Team for recording.
- 7.12.11 To comply with the regulations, it is expected that the draft investigation report for most complaints will be submitted to the Customer Relationship Team within 20 working days of the signed statement of complaint being received from the complainant, this allows a further 5 working days for making any necessary amendments and for submission to the Director for response. Where it is not possible for a response to be delivered to the complainant within 25 working days, an extension up to 65 working days (i.e. 40 additional working days) is available

providing that the complainant is notified and provided with the reasons why it was not possible to conclude the process earlier.

### 7.13 **Stage 3 (Review Panel)**

7.13.1 Any complainant who remains dissatisfied with either the investigation or the proposed outcome after receiving the Stage 2 investigation report and the letter of response from the Director is entitled to seek progression to the third stage of the complaints process. S/he or the advocate is required to make a request for progression to Stage 3 within 20 working days of the date when the Stage 2 response was issued, and set out the reasons for dissatisfaction with the proposed outcome.

7.13.2 The Review Panel must take place within 30 working days of the complainant's request. It is convened, organised and administered by the Customer Relationship Team.

7.13.3 The Review Panel consists of three independent persons one of whom takes the role of chair.

Present at the Panel in addition will be:

- The Complainant
- The Complaint Manager
- The Independent Investigator
- The Independent Person from Stage 2
- The Director who responded to the complaint at Stage 2
- The Panel Clerk (from Customer Relationship Team)

7.13.4 The complainant may be accompanied at the Panel by a representative, friend or advocate, whom s/he may nominate to speak on his/her behalf. Because the process is not intended to resemble a court of law this person should not be a lawyer acting in a professional capacity. Likewise in light of this no lawyer from the local authority should be present at the meeting.

7.13.5 After introductions the complainant or his/her advocate or representative is invited to submit a verbal summary of the complaint. The Director or nominated representative then responds verbally to the complaint on behalf of the Council.

7.13.6 The Panel's role is to review the complaint, rather than to re-investigate it.

It does this by looking at the processes which have been employed at previous stages of the procedure to evaluate the quality and soundness of the independent investigation. It undertakes the reviewing role by considering, testing and evaluating the evidence with which it is provided.

This includes:



- Looking at the original complaint and any submissions subsequently provided by the complainant.
- Consideration of all correspondence, reports and submissions prepared, by or on behalf of the authority, in connection with the complaint.
- Consideration of the legal, regulatory and procedural context of the complaint.
- Hearing verbal submissions of similar duration from the complainant or his/her representative, and from the appropriate Director.
- Inviting the Independent Person from Stage 2 to provide a written or verbal submission.
- Addressing questions to the complainant, the Director (or representative), the Investigator and the Complaint Manager in order to clarify information under consideration.

7.13.7 Once the Panel Chair has drawn this part of the process to a close, the Panel retires to deliberate on its conclusions and recommendations. The Panel Chair writes to the complainant and to the Director for Children’s Services within 5 working days, providing the Panel’s decision regarding whether the complaint was adequately dealt with by the Council at Stages One and Two and making any recommendations for action.

7.13.8 Within 15 working days of receiving the Panel chair’s letter, the Director will write to the complainant with the authority’s formal response at Stage 3, commenting on the Panel’s summary and recommendations and providing details of any action which will be taken following the Panel’s recommendation. Details of how the complainant can approach the Local Government Ombudsman in the event of continuing dissatisfaction will be provided within the letter.

## 7.14 The Process

Task	Action	Timescale	Responsibility
<b>Stage 1</b>			
Complaint Received	To notify the Customer Relationship Team of any complaint which has been received elsewhere in the Council.	Immediately, by phone, fax or email	Any member of staff
Acknowledgement to Complainant	To send a formal acknowledgement to the complainant that the complaint has been received and registered.	The same or the next working day, following receipt (within 2 days).	Customer Relationship Team
Allocation to Service	To pass the complaint to the relevant Service Delivery Manager	The same or the next working day, following receipt (within 2 days).	Customer Relationship Team

Facilitate an Advocate	To notify the Rights & Representations Service of any complaint made by a child or young person	The same or the next working day, following receipt	Customer Relationship Team
Investigation and Full Response	To undertake whatever activity is required to resolve the complaint informally at Stage 1 to the complainant's satisfaction	10 working days (extendable by a further 10 working days if the complaint is complex)	Relevant Service Delivery Manager
Confirmation of Outcome	To write to the complainant and advocate confirming the outcome at Stage 1 if this was not confirmed in the response letter.	As soon as possible after resolution (5 working days maximum)	Relevant Service Delivery Manager
<b>Stage 2</b>			
Request a Formal Investigation			
Appoint Investigator and Independent person	To appoint an Independent Investigator and an Independent Person to undertake a Stage 2 Investigation	Within 5 working days of receiving the Stage 2 request or agreed complaint statement	Customer Relationship Team
Investigation Draft Report Submitted	To complete the investigation and submit the draft Stage 2 report to the Customer Relationship Team and to the Independent Person	Within 25 working days of complaint statement being signed (unless extension agreed with complainant in which case this period is extended to 65 working days maximum.)	Independent Investigator
Notification of Extension	To notify the complainant where appropriate the reasons for necessary extension past 25 working days and to specify a new completion date	Within 20 working days of the complaint statement being signed	Customer Relationship Team
Final Report Submitted	Having checked for accuracy, to submit final reports to the Director	Within 5 working days of receiving the Final reports.	Customer Relationship Team
Independent Persons Report Submitted	To complete and submit the Independent Person's report to the Customer Relationship Team	As soon as possible following receipt of Final Report. (2 working days maximum)	Independent Person
Formal Response	To provide the complainant with a formal Stage 2 response, together with a copy of the investigation reports (both items copied to	Within 5 working days of receiving the final reports and in all cases, within 65 working days of the complaint	Director

	the advocate where appropriate)	statement being agreed & signed	
Learning Outcome Meeting	To convene a Learning Opportunity Meeting	Within 25 working days of complaint resolution response	Customer Relationship Team
	<b>Stage 3</b>		
Request a Review Panel	To notify the Customer Relationship Team that a Review Panel is requested	Within 20 working days of receiving the Stage 2 response	Complainant or advocate
Organised Panel	To organise independent chair and panel for Stage 3 Review Panel	The same or the following working day that request is received.	Customer Relationship Team
Convene Panel	To convene and service a Review Panel	Within 30 working days of the receipt of the complainants request.	Customer Relationship Team
Review Panel Recommendations	To notify the complainant, the advocate and the Director of the Review Panel's recommendations	Within 5 working days of the Panel having met.	Panel Chair
Stage 3 Response	To provide the complainant and advocate with the formal Stage 3 response	Within 15 working days of the Panel having met.	Director
Learning Outcome Meeting	To convene a Learning Opportunity Meeting	Within 25 working days of complaint resolution response.	Customer Relationship Team

## 7.15 The Local Government and Social Care Ombudsman (LGSCO)

- 7.15.1 The Local Government and Social Care Ombudsman is independent and impartial and gives a service which is confidential and free of charge. The Ombudsman has the same powers as the High Court to require people to provide information and to produce documents for investigation.
- 7.15.2 Any member of the public is able to complain to the Ombudsman if they feel there has been an injustice. However, the Ombudsman's office usually states that customers should first take up their complaint with the relevant Department or Council.
- 7.15.3 If the customer is not happy with how the Council has dealt with their complaint, they can take the matter to the Ombudsman, whose role is to investigate complaints of maladministration by Local Authorities. Maladministration means that there has been a fault in the way the Council has or has not done something, such as a failure to follow its own rules or a breach of legislation.
- 7.15.4 Complaints which members of the public make to the Ombudsman will be dealt with by the Customer Relationship Team who will ensure that the complaints process has been followed.
- 7.15.5 The Ombudsman may reject any complaint as premature if the complaints procedure has not been followed. The Ombudsman's involvement may be ended

at any point where it is clear there is no maladministration or where the Council agrees to settle with the customer.

- 7.15.6 Complainants who remain dissatisfied with the proposed outcome after their complaints have passed through all three stages of this procedure will be notified by the Director for Children Services that they are entitled to approach the Local Government and Social Care Ombudsman, to request that the matter be considered by him. Contact details for the Ombudsman are:

Phone: 0300 061 0614

Online: [www.lgo.org.uk](http://www.lgo.org.uk)

- 7.15.7 People who receive or use the Council's services are entitled to make complaints to the Ombudsman at any point. It is generally the case however that the LGSCO declines to undertake an investigation until the complaint has passed through all stages of the local authority's complaints process.

## **8 Improving Services following Complaints**

- 8.1 We are committed to ensuring that all possible lessons are learnt from the complaints we deal with, that our services improve as a result and that any mistakes that are identified are not repeated. For this reason, we have put in place ways of maximising the learning opportunities which arise from complaints.

- 8.2 Most complaints prove capable of being resolved with relative informality at the first stage. It is nevertheless crucial that the issues and themes which arise from these complaints are considered carefully and comprehensively so that any poor practice or structural difficulties are identified and addressed. The number and type of complaints about each service area are reported on a 3, 6, 9 and 12 monthly basis to the Senior Management Team with a summary of comments, recommendations and any emerging themes.

- 8.3 Complaints which are handled at Stage 2 and 3 invariably raise serious and important issues for the Council and the Investigator's report provides an invaluable independent perspective on the service provided and on the matters which resulted in the complaint. Within a month of the final resolution of complaints which have passed to Stages 2 or 3, the Customer Relationship Team will convene and chair a Learning Opportunity Meeting attended by key staff and managers whose task is to prepare a plan for the implementation of necessary actions and changes which have arisen from the complaint. These plans will be reported to the Service Delivery Management Team. Learning will also be shared and discussed as part of the Children's Quality Assurance Framework.

- 8.4 A summary of learning points and changes made arising from complaints will be included in the annual report on complaints.

## **9. Complaints about services provided under contract by independent providers**

- 9.1 In looking at complaints about services which the local authority purchases from independent providers, it is necessary to distinguish between the authority's

responsibility in commissioning services, arranging placements, (re-)assessing individual needs, monitoring the adequacy of a particular placement, service etc, and the provider's responsibility to ensure that the service provided meets the necessary standards and complies with the requirements of its' contract with the authority. Complaints about providers' discharge of their functions and obligations are known as Care Standards complaints.

- 9.2 Each of the independent care service providers with whom the Council contracts is required, under its contract or through a pre-placement agreement to have arrangements in place for handling complaints about the service it provides. These must be sufficiently robust and effective to enable the provider to deal with Care Standards complaints promptly, fairly and in a way which is proportionate to the gravity of the concern raised, without the need to refer the matter elsewhere for action. The complaints management arrangements which the provider has in place must also comply with the relevant regulations and with the respective National Minimum Standards, which are monitored by an external regulatory body.
- 9.3 While the local authority can be held accountable through this complaints procedure for the way in which it carries out its obligations, it is not primarily responsible for Care Standards complaints arising from services registered under the Care Standards Act 2000. These are for the provider to handle within the arrangements prescribed in the appropriate regulations (e.g. the Children's Home Regulations 2001).
- 9.4 Although they are directly operated by the local authority, the Council's children's homes are registered under the Care Standards Act and are therefore required to maintain an in-house complaints procedure in compliance with Regulation 24 of the Children's Home Regulations 2001. Care Standards complaints which relate to these homes should be handled through the in-house procedure unless it is agreed between the responsible Service Delivery Manager and the Customer Relationship Team that a different approach should be taken.
- 9.5 In cases where the provider's final response to a Care Standards complaint proves unsatisfactory to the complainant, the complaint may be referred to the Customer Relationship Team where the appropriateness of having the complaint investigated at Stage 2 of this procedure will be considered. Given that the local authority has a duty of care to people for whom it arranges and purchases services, they will in most cases be entitled to recourse to this statutory complaints procedure if the provider's procedure has not delivered a satisfactory outcome.
- 9.6 If the Council receives a Care Standards complaint Customer Relationship Team staff will on the same or the next working day ask the complainant whether s/he wants the matter passed to the registered manager of the service concerned. If so, the matter will be sent to the registered manager within 5 working days. The portfolio will also notify the Care Quality Commission (CQC), of any such complaint, and maintain close liaison with CQC on all complaints arising from the services it regulates.
- 9.7 Where a complaint received by the Council includes aspects which relate both to Care Standards matters and to the way in which the Council has carried out its duties, the complainant's permission will be sought to pass the relevant information

to the registered manager of the service and then collaborate closely with the provider in order as far as possible to provide a single co-ordinated response to the complainant.

- 9.8 The provider is required to notify the Customer Relationship Team of any Care Standards complaint which it receives directly in respect of a service which has been purchased by the Council, and to provide a copy of its' response.

## **10. Complaints which are partly about the National Health Service**

- 10.1 Children's Services not only collaborates closely with local Primary Care Trust (NHS Shropshire, Telford & Wrekin (ICS)) but also provides some joint services, notably in the case of the Child & Adolescent Mental Health Service (CAMHS) and the Disabled Children's Team. It is therefore necessary to clarify the manner in which complaints which may cross former service boundaries are to be handled so that people who bring complaints are provided with prompt considered responses and with accurate details of how to progress matters if necessary.

- 10.2 The present legal and regulatory arrangements governing the management of complaints respectively about local authority services and local health services prevent a single unified approach from being adopted. Therefore a collaborative approach to cross-cutting complaints will rely on close communication, contact and engagement between complaints staff in the Council and in the ICS on relevant complaints.

- 10.3 If a complaint received by the Council appears in part to require a response from an NHS organisation, Customer Relationship Team staff will ask the complainant within 10 working days for permission to pass that part to complaints staff in the NHS organisation. When this is received, those aspects of the complaint which are for the NHS organisation to address must be sent to them without delay. The complainant must be notified of which elements of the complaint will be dealt with under the procedures described here (established under the Children Act 1989 Representations Procedure (England) Regulations 2006) and which will be dealt with under the NHS Organisations procedures (established under the National Health Service Complaints Regulations 2004).

- 10.4 Where a complaint requires consideration by both the Council and a NHS organisation, as described in the previous paragraph, there is an obligation on both parties to co-operate. This includes providing information relevant to the consideration of the complaint to the other party, attending collaborative meetings and seeking agreement on which of the parties should lead on co-ordinating action to resolve the complaint. As far as possible, a single co-ordinated response to the complaint will be provided.

- 10.5 When the Council receives a complaint which appears not to relate to a children services function, but to apply solely to the remit of an NHS organisation, Customer Relationship Team will ask the complainant within 5 working days for permission to pass the matter to complaints staff in the relevant organisation. When this is received, the complaint must be sent without delay.

## **11 Unacceptable behaviour and unreasonably persistent complainants**

11.1 Children's Services is committed to providing an inclusive, responsive and easily accessible complaints process. It will generally not impose restrictions upon the way in which complainants are able to contact or communicate with staff members.

11.2 In line with the authority's duty of care however, staff are entitled to protection from complainants whose behaviour is abusive, offensive or threatening. In such cases, the Complaint Manager will inform the complainant why his/her behaviour is considered unacceptable and ask him/her to change it. If this has no effect, possible ways forward will be discussed at a formal (noted) strategy meeting, convened and chaired by the Customer Relationship Team. Decisions and action in such cases must be consistent, proportionate to the concerns, time-limited and subject to review at least annually.

11.3 Among the possible measures available are;

- Restriction of access to service area sites
- Routing of all contact with the person through a named staff member
- Requiring contact with the person to be by letter only
- Proposing a formal agreement with the complainant about his/her behaviour
- Accessing legal advice regarding obtaining an injunction
- Notification to the police
- Notification to the keeper of the Council's Personal Safety Precautions Register.

11.4 Whilst no single definition of an unreasonable persistent complainant exists, vexatious behaviour may include some or each of the following, this is not an exhaustive list;

- Refusing to specify grounds of the complaint, despite offers of assistance from the council.
- Refusing to cooperate with the complaints investigation process whilst still wishing the complaint to be resolved.
- Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- Unwillingness to accept the terms of the complaints procedure.
- Insisting on the complaint being dealt with, in ways that are incompatible with the complaints procedure or good practice.
- Making what appear to be groundless complaints about the staff dealing with the complaint, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements made at an earlier stage.

- Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large number of detailed but unimportant questions and insisting they are fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Making unnecessary excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these “new” complaints which should be put through the full complaints procedure.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.
- Repetition of identical or similar complaints, but failure to accept any outcome.
- Excessive focus on the complaints process, as opposed to the desired outcome.
- Focus on unrealistic and unachievable outcomes.
- Unreasonably persistent and repetitious contact with the service area.
- Tendency to approach different parts of the organisation, in the apparent hope of eliciting different responses.
- Abusive or threatening behaviour or language towards council staff.

11.5 Subject to any considerations about unacceptable behaviour, it is crucial to ensure that the substance of any complaint which seems to be being pursued in a vexatious manner is considered and investigated with the same rigour as any other complaint, as far as possible. Only on this basis could the service area justify any later course of action which had the effect of treating the complainant differently from others.

11.6 The basis on which a vexatious complainant might be treated differently from any other complainant stems from the authority’s obligation to deploy its resources as fairly as possible. This entails avoiding using resources disproportionately and unproductively in respect of some individuals. Responding to vexatious complaints can be stressful to the staff involved and the authority’s duty of care to its employees requires appropriate remedial action to be taken in such cases.

11.7 As in the case of unacceptable behaviour, the manner in which the portfolio deals with vexatious complainants must be agreed at a noted strategy meeting. The actions agreed which may include several of those listed at 11.4, must be



consistent, proportionate to the concerns, time-limited and subject to review at least on an annual basis.

## **12 Corporate Complaints**

12.1 It will be appropriate for certain complaints which are made with relation to children's services to be handled within the authority's corporate complaints procedure, rather than within this statutory procedure. Examples of such instances include circumstances where:

- The person bringing the complaint is not specified within the regulations as being permitted to do so, or is not deemed to have sufficient interest in the child's welfare to do so.
- The complaint is not about the way in which the authority carries out or fails to carry out its statutory duties or functions.
- The complaint is made by a professional person or agency on his/her or their own behalf, rather than on behalf of a person using the social services provided by the Council.

12.2 The corporate complaints procedure has two stages, which are:

- Local resolution and response from a Service Delivery Manager
- Independent Investigation

Complainants who remain dissatisfied after this process has been exhausted are entitled to approach the Local Government and Social Care Ombudsman

12.3 Any person whose complaint falls into this category will be provided by the Customer Relationship Team with written details of how the process works. However in cases where a complaint incorporates elements which will need to be dealt with both within the statutory services procedures and the corporate complaints procedures (e.g. a complaint about both housing needs and case management issues), Customer Relationship Team will seek to arrange for a single co-ordinated response to be issued at the first stage, on behalf of the respective Service Delivery Managers.

12.4 Information about corporate complaints is collated centrally and is reported at 3 and 12 monthly intervals by the Complaints Manager.

## **13 Enquiries by Members of Parliament**

13.1 The means which the authority has agreed that Members of Parliament make enquiries or representations on behalf their constituents is for MP's to address these to the Managing Director. This enables each matter to be registered and acknowledged centrally and passed to staff or managers in the appropriate service for response. MP enquiries about Children's Services are sent by the Managing

Director's office to the Customer Relationship Team for distribution to the appropriate Service Delivery Manager, Director or the Director as appropriate.

- 13.2 On occasions MP enquiries arrive by a different route, e.g. direct to a Director or to individual managers. In such cases, the Customer Relationship Team must be notified promptly so that the matter can be acknowledged, registered and tracked.
- 13.3 The standard maximum response time for MP enquiries is 10 working days. If it is likely that the response will not be provided within this period, for whatever reason, the MP should be notified of the delay as a matter of courtesy and provided with an estimate of how long the response will be delayed.
- 13.4 Data Protection considerations demand that caution is exercised in providing personal information about service users who are constituents to MPs unless the constituent has specifically stated (in writing) that there is no objection to the MP receiving this. In cases of doubt, the person about whose services the MP has made an enquiry should be approached for permission to provide this. The MP should be notified of this as this might well cause a delay in sending the response.

## **14 Compliments and comments**

- 14.1 Whilst these procedures are primarily addressed to the handling and resolution of complaints, all comments and compliments received from customers using our services and their representatives are valued just as highly.
- 14.2 All comments or representations are acknowledged by Customer Relationship Team staff and passed promptly to the relevant Service Delivery Manager, for whatever response is required.
- 14.3 Written compliments, commendations and expressions of thanks and appreciation are formally recorded and acknowledged by the Customer Relationship Team before being passed on to the appropriate Service Delivery Manager.

## **15 Performance Monitoring**

- 15.1 A report on complaints activity within children's services is produced for the Senior Management Team on a quarterly basis. This will incorporate statistical details as well as information about trends. The outcome of any Learning Opportunity Meetings (see 8.3) is also reported.
- 15.2 An annual report on the operation of the Complaints, Compliments and Comments Procedure is prepared relating to the past business year. The annual report is presented to the elected members on Audit Committee. The final report is published on the Council's website with hard-copies available on request from the Customer Relationship Team.

## **16 Further information about the complaints, comments & compliments procedure**

- Complaints leaflets
- Child friendly Child's Statutory Complaints Policy
- Getting the Best from Complaints Guidance
- Policy for Managing Persistent and vexatious Complainants
- Guidance and Protocols for Complaints

# 17 Flow Chart - Statutory Complaints process for Children's Social Services

