

## Children and Young People Service



Complaints and Representations Procedures  
2009

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Children's Services has a unique position within the Local Authority Complaints system. Different service sectors are subject to specific legislation, which define its obligations to service users. For this reason it is not possible to have a single policy to cover all aspects of the service. This guidance is intended to detail the policy and procedures for each type of complaint and provide guidance to staff on how to respond when they receive a complaint.

There are different procedures for

- Children's Social Care Services
- Schools
- Education, Early Years and Youth services
- Statements of Special Educational Needs
- School admissions and exclusions

It is important that all staff are aware of procedures for different sectors as they may be asked to respond to queries or concerns about another service e.g. a looked after child may ask their teacher for help in making a complaint about their placement. It is important, particularly for children that their requests for advice and support are dealt with quickly and supportively.

It is intended that this guidance meets the requirements of:

- Children Act 1989
- Children Act 2004
- Care Standards Act 2000
- Data Protection Act 1998
- Freedom of Information Act 2000
- Human Rights Act 1998
- Disability Discrimination Act 1995
- Children (Leaving Care) Act 2000
- Adoption and Children Act 2002
- Education Act 1996
- School Standards and Framework Act 1998.
- Education Act 2002
- UN Convention on the Rights of the Child
- The Bichard Report
- Every Child Matters
- Special Guardianship Regulations 2005
- Adoption Support Services Regulations 2005
- Adoption Agency Regulations 2005
- Working Together to Safeguard Children 2006
- National Standards for the Provision of Advocacy Services 2002

The children's social care procedures have been drawn up in line with the Children Act 1989 Representations Procedure (England) Regulations 2006 and the DfES guidance **Getting the Best from Complaints**.

Schools are required to produce and implement their own procedures. This guidance provides a model procedure for schools to adopt that is in line with DfES guidance.

Most other services are dealt with under Kirklees's corporate complaints procedure in line with the corporate customer access strategy.

All the procedures also reflect recent research, consultation and policy on good practice drawn from a number of sources. The Waterhouse Inquiry's report **Lost in Care** (2000) highlighted incidences of children who tried to complain but were not heard. The Commission for Social Care Inspection produced a report **Getting the Best from Complaints – the children's view** in January 2005. The Children's Commissioner for Wales has conducted 2 reviews of the Children's complaints services in Wales. In 2003 he published **Telling Concerns** and in 2005 **Children don't complain – parents do**. These documents have highlighted young people's experiences of making complaints and their views on how to improve the service. **Get it Sorted** raised the profile of Advocacy services placing a duty on local authorities to ensure that children and young people have access to independent support.

These procedures support and reflect the Department's commitment to a Children and Young People's Participation Strategy. Consultations will be conducted with children and young people using the service on a regular basis to review the accessibility and effectiveness of the complaints service.

# Children Act Representations Policy

This is a statutory procedure, which applies to any comment, compliment or complaint about the provision of services under Parts 3, 4 and 5 the Children Act 1989 and Part 3 of the Adoption and Children Act 2002.

A complaint is defined as:

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

The intention of this Policy and Procedure is to promote opportunities for concerns to be addressed as close to the point of service delivery as possible. Frontline staff are encouraged to take a positive view of representations and complaints and will be trained and resourced to respond quickly and effectively to most concerns. Staff will ensure that all comments and complaints regarding the service are taken seriously and dealt with fairly and consistently.

A complaint can be made regarding any Children's Social Care service, including

- An unwelcome or disputed decision
- Concerns about the 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
- Application of eligibility and assessment criteria
- The impact on a child of the application of a policy
- Attitude / behaviour of staff
- Assessment, care management and review.

Legal, criminal, child protection or disciplinary proceedings may take precedence over complaints procedures and timescales.

A child or young person should be able to make representations for a change to be made to the service they receive without this being framed as a complaint. This may become a complaint if the young person feels their representations are not being listened to. General comments or suggestions about improvements to the service will not be dealt with as complaints, and will be referred to service manager.

Any young person who wishes to make a representation, or is considering making a complaint must be offered an advocate to support them in this. They may choose someone they know and trust, ask for somebody independent or choose not to have one.

Complaints can be made verbally or in writing.

# Children Act Representations Procedure

## Representations

Representations can be made by

- Any child who is looked after, in need, subject of a Special Guardianship Order or being placed for adoption
- Their parent, or any person with parental responsibility for them
- Their Foster Carer
- Care leavers
- Special Guardians
- Persons wishing to adopt a child
- Any person to whom adoption services extend
- Any other person who the authority deems has sufficient interest in the child's welfare (including friends and other young people).

The person receiving the representation must contact the Children's Complaints Officer if they are unsure if the person making the complaint has sufficient interest. The young person's views should be sought whenever they are of sufficient age and understanding. If it is agreed that the person is not of sufficient interest, the Complaints Officer must write to the complainant explaining the reason why.

When a child or young person or their representative wishes to make a Representation, they may speak or write to their:

- Social worker
- Independent Reviewing Officer
- Foster carer
- Foster carer's link worker
- Residential worker
- Teacher
- Education Social worker
- Welfare Officer
- Youth Worker
- Leaving Care worker
- Children's Complaints Officer

The person who receives the Representation should attempt to work with the young person to address the concern informally. This may involve

- Helping the child to express their views to another person
- Explaining policies or decisions
- Arranging to discuss concerns at a forthcoming meeting
- Reassessment of need
- Mediation and conciliation
- Arranging for an Independent Advocate for the young person

# Children Act Representations Procedure

The person who receives the Representation can get support in this from

- Their manager
- Their link worker
- The Children's Complaints Officer

In many cases a concern can be resolved immediately and there will be no need to engage the complaints procedure. If the person who receives the Representation cannot resolve it within 2 working days they should notify the Complaints Officer by telephone or email and ensure that the complainant is given information on how to contact the Complaints Officer.

Any complaints made on behalf of a child or family by a Councillor, M.P. should be referred to the Children's Complaints Officer for monitoring or processing.

Complaints will be dealt with at Stage One unless the Department and the complainant agree that it should immediately progress to Stage 2. This will only be agreeable if

- No appropriate manager is available to respond at Stage 1
- The complainant and the Customer Service Unit Manager agree that it is appropriate to seek an independent investigation from the outset.
- The complainant, the Customer Service Unit Manager agree that there is no prospect of resolving the complaint within the Stage 1 timescale

## **1** Stage One **Local Resolution**

The person who receives the Complaint should notify the Children's Complaints Officer and keep a written record of the date it was received, action taken to resolve it and the outcome. The Complaints Officer will notify the relevant managers and agree who will respond. This should be the manager closest to the point of service delivery unless that individual is

- The subject of the complaint, or
- Was actively involved in the decision-making or implementation of the issues in the complaint.

Any individuals who are the subject of a complaint will be notified of the details of the complaint and given the opportunity to comment. They must be offered support from their line manager to assist them in co-operating with the procedure and working positively with the complainant.

The Complaints Officer will provide the complainant with a copy of the complaints procedure and information about advocacy services within 3 working days.

# Children Act Representations Procedure

The complainant should be offered a meeting to discuss their concerns. This should be an exchange of information. Decisions, and the reasons for them should be explained, and failings should be acknowledged. Efforts should be made to agree a way forward that is acceptable to both parties.

The complainant must be provided with a written summary of the discussion and the agreements reached. The written response must be provided within 10 working days of the date the complaint was received. If the complaint is complex this can be extended for a further 10 working days with the agreement of the Complaints Manager.

If the complainant declines the offer of a meeting, they should be sent a written response within the same timescales.

In some cases there may be a need for further action to be taken to enable the complaint to be resolved. This should be negotiated with the person making the complaint and confirmed in writing.

If the complaint is in respect of a proposed change to a care-plan, placement or service, action taken to implement the decision should be frozen until the outcome of the complaint is known, unless doing so would place the child at risk. All other services and processes should continue as this may assist in resolving the complaint.

Any individuals who are the subject of a complaint will be notified in writing of the outcome.

If a response has not been provided within 20 working days, or the complainant is not satisfied with the response, they can request that the process moves to Stage Two.

## **2** Stage Two Investigation

A request for a complaint to progress to Stage 2 must be made within 20 working days of

- The expiry of the local authority's timescale for a response at Stage 1, or
- Receipt of the response at Stage 1,

whichever is the later.

If the complaint is made verbally, or the details are unclear, the Complaints Officer must produce a written record of the details of the complaint and the desired outcomes and agree this with the complainant.

Timescales for Stage 2 apply to the date when the written complaint is agreed.

Staff who are required to provide information to the investigation will be provided with a copy of the agreed complaint. Any individuals who are the subject of a complaint will also be provided with a copy, unless doing so would prejudice the investigation. In these circumstances, the Assistant Director will make arrangements for the individual to be told the nature of the complaint. All those involved in the investigation should have access to notes of their own interview in order to confirm the accuracy of their content.

# Children Act Representations Procedure

The Complaints Officer will appoint an Investigator and an Independent Person to consider the complaint. (See P. 34 for definition of roles) Most of the independent people used have a background in children's social care. Wherever possible, Independent People will be appointed based on their knowledge of the service area to which a complaint relates. All Independent People will provide a CRB check and references to ensure their suitability to carry out this type of work.

Staff should co-operate with all requests for information pertinent to the investigation of the complaint. This may include participating in interviews with the Investigator, access to files, policies and procedures and demonstration of systems. If staff have any concerns about the disclosure of information they should seek advice from the Complaints Manager or their line manager.

Investigations should be completed and a response sent to the young person within 25 working days. This may be extended to a maximum of 65 working days to ensure a full and thorough investigation. There is however a duty on the local authority to deal with complaints as efficiently as possible. If the investigation cannot be completed within 25 working days, the complaints manager must write to the young person giving the reasons why and the date on which they can expect to receive a response.

Once investigations are complete, the Investigating Officer must compile a report of their findings, recommending any further action that needs to be taken. The Independent Person must also produce a brief written account of whether the investigation has been conducted fairly and the report is accurate and complete.

These reports must be submitted to the Assistant Director for adjudication. The response should include what actions are to be taken in light of the findings and recommendations and timescales for their implementation. The response must also contain information on the complainant's right to progress the complaint to Stage 3. The Adjudicating Officer should consult with the Complaints Manager and the Independent Person when drafting the response. A copy of the Investigation report should be sent to the young person with the written response. A meeting should be arranged to discuss the report with them and their advocate if they have one. A copy of the report and the response should be placed on the young person's file.

Any individual who was the subject of a complaint will be notified in writing of the outcome of the complaint. Where the entire complaint was in relation to the actions of a single individual, that individual will be provided with a copy of the report and the response. If the complaint relates to a number of issues, or names more than one individual, disclosure of all or part of the report and response will be at the discretion of the Assistant Director. This approach is necessary to safeguard the confidentiality of young people, staff and carers.

It is the responsibility of the Adjudicating Officer to ensure that the recommendations are implemented. The Complaints Manager should monitor implementation and report to the Director on progress.

# Children Act Representations Procedure

## Stage Three **Review Panel**

If the complaint is not resolved, the young person has 20 working days to request that it be considered at Stage 3. This request must be made in writing and explain the reasons why they are dissatisfied. The request must be acknowledged within 2 working days.

A Review Panel will be arranged if the request demonstrates that

- The report or response at Stage 2 was incomplete or inaccurate
- The complaints procedure has not been followed
- The department has acted unreasonably in the consideration or resolution of the complaint

Early referral can be made to the Ombudsman if the complainant and the Complaints Manager agree that a review panel is unlikely to provide a different outcome to that of the Stage 2 response, and

- The report and response at Stage 2 is robust and complete
- All complaints have been upheld
- There is a clear action plan for delivery, and
- The majority of the desired outcomes are met.

If the request for a Review Panel is accepted the Complaints Manager will appoint an Independent Person to Chair the panel. The Chair will be consulted on the membership of the panel and who should attend. The Complaints Manager will then appoint 2 Independent Panellists who must not have had any previous involvement in the investigation of the complaint. These appointments will be confirmed in writing.

The Investigator and Independent Person involved at Stage 2 should attend the hearing. The Chair may decide to proceed without them if lack of availability will result in excessive delays in resolving the complaint. The Adjudicating Officer must attend if he has rejected any of the Investigators findings or recommendations. If the report has been accepted in full, they may delegate this responsibility. The complainant will also be invited to attend. The Panel can proceed without the complainant at their request. The Complaints Manager must attend to advise the panel on procedure. Other local authority representatives may also be required to attend.

The Complaints Manager will provide all parties with the same set of papers 10 days in advance of the hearing. These should include information from Stage 1 and Stage 2 of the procedure and any other relevant information e.g. policies and procedures. Information on the process of the hearing and roles and responsibilities, should also be included.

The Chair will have discretion about whether to accept any other information.

# Children Act Representations Procedure

The panel hearing must take place within 30 working days of the request being received. Their role is not to re-investigate the complaint or deal with new complaints, but to establish whether the Department has made every effort to resolve the complaint. They may make recommendations for remedies, redress or service improvements to aid in the resolution of the complaint.

The complainant has the right to a representative to support them or speak on their behalf. This should not be a lawyer acting in a professional capacity.

The hearing should be conducted professionally, but as informally as possible, particularly where the complainant is a child. Arrangements will be made for the provision of interpreting services and assistance in communication wherever necessary.

If any complaint is made about the proceedings of the Review Panel during the hearing, the panel must decide if there is a need for any further action.

The Panel will send a report on their findings and recommendations to the complainant and the Director of Children's Services within 5 working days of the hearing. The Director should consult with the local authority representative at the hearing, the Complaints Manager and the Independent Person regarding the response. The local authority must respond to the complainant within 15 working days of receiving the panel's report. The response should detail what actions are to be taken in light of the findings and recommendations and timescales for their implementation. The response must also contain information on the complainant's right to refer the matter to the Local Government Ombudsman if they are not satisfied with the response.

## **4** Stage Four Referral to Ombudsman

A complaint can be referred to the Local Government Ombudsman at any time. In most cases the Ombudsman would expect the Local Authority to consider a complaint initially.

The Ombudsman will consider complaints if the complainant is not satisfied with the outcome at Stage 3. The Ombudsman will consider if there has been "maladministration" by the local authority. He can direct the Local Authority to take actions to resolve the complaint.

# Complaints from Foster Carers

Complaints from Foster Carers on behalf of the children they look after will always be handled under the Children Act Procedure.

Foster Carers can also make complaints in their own right. Complaints that refer to issues that affect the children they look after, or other children in the household, will also be dealt with as Children Act complaints.

Complaints that are exclusively about services to the Foster Carer e.g. provision of training and support will be handled under Kirklees's corporate complaints procedure.

The registration or de-registration of foster carers is subject to an appeals process and will not be covered by the complaints procedure.

## Withdrawal of Complaints

Complaints may be withdrawn orally or in writing at any time. The Complaints Officer must be informed immediately if this happens. The Complaints Officer must then contact the person making the complaint confirming their decision.

The Complaints Officer, Service Manager and Assistant Director should review the issue of concern and consider whether further investigation is required through other internal management systems.

## Limits of Procedure

Complaints will normally need to be lodged within 12 months. Historic complaints may be considered if made by a person who, at the time of the issue being complained about, was under the age of 18, and was not able to, or not confident in raising the issue. This limit can only be extended if it is still possible to consider the representation effectively and efficiently. There should be a presumption in favour of accepting the representation unless there are clear reasons not to e.g.

- Insufficient access to information or individuals
- No benefit to the complainant in proceeding

A complaint will not be accepted if it has already been dealt with at all stages of the procedure.

If a complaint is refused, the Complaints Manager must write to the complainant informing them of the decision and informing them how to contact the Local Government Ombudsman.

# Unreasonable Complaints

A complaint can be regarded as unreasonable when the person making the complaint

- Repeatedly makes the same complaint and refuses to accept the findings of the investigation into that complaint
- Seeks an unrealistic outcome
- Has a history of making unreasonable complaints.
- Makes frequent, lengthy, complicated and stressful contact with staff regarding the complaint.

A complaint will also be considered unreasonable if the person making the complaint does so

- Maliciously
- Aggressively
- Using threats, intimidation or violence
- Using abusive, offensive or discriminatory language
- Knowing it to be false

In these circumstances, the Complaints Manager should write to the complainant explaining what behaviour is unreasonable and asking them to change it. If the complainant fails to make the required changes, the Complaints Manager should seek advice from the Assistant Director and legal services before deciding what action to take.

The presumption should be in favour of not restricting access unless it is absolutely necessary. The Complaints Manager may consider

- Warnings / contract re future conduct
- Restricting telephone calls to a particular day / time or person.
- Restrictions on methods of contact (e.g. in writing only)
- Not acknowledging future correspondence that does not present new information.
- Temporary suspension of the person's access to the complaints system

The complainant will be informed in writing of any action taken and how long the action will last. They must also be advised how to contact the Ombudsman.

## Anonymous Complaints

Anonymous complaints must be recorded and referred to the Complaints Manager in the same way as other complaints. Anonymous complaints fall outside the scope of the statutory complaints procedure.

The Complaints Manager will discuss the details of any anonymous complaints with the relevant Service Manager. If there is sufficient information contained in the complaint it will be investigated in the same way as other complaints.

If there is insufficient information to support an investigation, the complaint will be recorded and closed.

# Complaints in relation to Court Proceedings

Complaints can be made regarding

- Application for care and supervision orders
- The effect of a care order on a child or young person
- The local authority's actions and decisions where a care order is made
- Performance of duties where a supervision order is in force
- Application for and duties in relation to child assessment orders
- Application for Emergency Protection Orders
- Decisions relating to the return of children who have been removed on an Emergency Protection Order
- Quality / accuracy of social work information and reports provided to court
- The duties of the local authority in relation to the placement of children for adoption by adoption agencies

This procedure is not an appeals process and cannot overturn a court's decision.

If a complaint is received regarding the application for, duties in relation to, or effects of legal orders, the Complaints Manager must establish whether the complaint is about the actions of the local authority and its staff or the decision of the court. If the complaint is about the decision of the court, the complainant will be encouraged to seek legal advice about making an appeal. This will not be dealt with as a complaint.

If the complaint is about the actions of the local authority and its staff it may be considered under this procedure.

If proceedings are ongoing, they cannot be frozen pending the outcome of a complaint. The Complaints Manager must advise the complainant that the outcome of the complaint cannot overturn a court's decision. If the substance of the complaint alleges inaccuracies in the information provided to court that might influence the decision of the court, the complainant will be encouraged to seek legal advice to address this within the court arena. This will be treated as a concurrent consideration.

Other matters e.g.

- Attitude / behaviour of staff
- Delays in providing services
- Failure to make appropriate contact arrangements

may be considered while proceedings are ongoing. If the complaint is resolved before court proceedings are concluded, the Service Manager must consider whether the outcome has a bearing on the court proceedings, and advise the court as necessary.

If court proceedings have concluded, the Complaints Manager must inform the complainant that the complaints procedure cannot overturn the decision of the court. If the outcome of the complaint finds that inaccuracies in the information provided to court may have influenced the decision of the court, this may form the basis for the complainant to make applications to the court for a decision to be reviewed.

# Corporate Complaints Policy

Kirklees Children's Services is committed to improving the quality of the services it provides. We aim to resolve any concerns quickly and as close to the point of service delivery as possible.

A complaint is defined as:

**“an expression of dissatisfaction, however made, about the standard of service, actions or lack of actions by the Council, their staff or their agents, affecting an individual customer or group of customers”.**

It may be about the standard of our performance, a delay, failure or mistake in the way a service is delivered, or about staff courtesy or attitude.

A complaint should not be confused with a request for service. Service requests are not logged as complaints.

Complaints can be made regarding any Children's Services function. They will be dealt with under the Corporate Complaints Procedure unless they relate to Children's Social Care Services, or where there is an existing appeals process. Further information on this is available from the Customer Service Unit Manager.

Complaints can be made by

- Anyone who receives a service from Kirklees Children's Services
- Anyone who has a need or possible need for a service from Kirklees Children's Services
- A representative of either of the above e.g. parent, carer, solicitor, councillor, or M.P.

Complaints can be made by

- By post
- By e-mail
- On line
- By telephone
- Face to face

If a customer's first language is not English we should ensure that information is translated to assist them.

A large print version of the Complaints, Comments and Compliments leaflet is available.

These procedures are not intended for use by employees (unless their complaint is regarding a service they receive). Their concerns should be raised through grievance and / or Whistle blowing procedures as a member of staff.

Legal, child protection or disciplinary proceedings may take precedence over complaints procedures and timescales.

# Corporate Complaints Procedure

**1** **Stage One** In the first instance, most concerns should be addressed to the person from Kirklees Children's Services who has had contact with the person making the complaint. If they prefer, they may contact the Team Manager or the Complaints Officer.

The person who receives the complaint should attempt to work with the service user to resolve the complaint. This may involve

- Reassessment of need
- Mediation and conciliation
- Arranging to discuss concerns at a forthcoming meeting
- Explaining policies or decisions

Staff should seek advice from their manager or the Children's Complaints Officer and agree the most appropriate response.

The Service Manager must be notified of any complaints, and what action has been taken to resolve them. The Service Manager will keep a record of the complaint for monitoring purposes.

Staff should try to answer any complaint within 10 working days of receipt. If the complaint cannot be dealt with in that time, the complainant must be provided with an explanation of why there is a delay and a date when they can expect to receive a response. Following the response the responding manager should identify any learning or changes to the service and share these with the services complaints officer. If the matter is not resolved, the complainant can request that it be considered at Stage 2 of the procedure.

**2** **Stage Two** A senior officer (Service Manager or Assistant Director) will investigate the complaint. They may speak to staff and check information held on files and record systems. They will try to establish if policies and procedures have been followed and if staff have acted appropriately.

It may be that as a result of a complaint, changes are made to policies and procedures to improve service delivery and prevent further complaints.

The complainant should be sent a written response within 10 working days.

**3** **Stage Three** If the person making the complaint is unhappy with the outcome and wishes to proceed they can ask for the complaint to be reviewed by the Corporate Customer Standards Officer on behalf of the Chief Executive.

You should send the relevant paperwork to the Corporate Customer Standards Officer, and give the complainant contact details for that officer. An initial response will be made to the complainant within a further 10 working days.

The Corporate Customer Standards Officer will review how the complaint has been considered so far, and may make further suggestions of enquiries on behalf of the complainant.

# Corporate Complaints Procedure

## Stage 4

If all other attempts to resolve the complaint have been unsuccessful the complainant may refer their complaint to the Local Government Ombudsman.

Again, the Local Government Ombudsman will ask officers to send them the relevant papers, and may ask additional questions on behalf of the complainant. The Ombudsman's office will consider what the council has actually done, as against its stated procedures and the appropriate legislation.

To investigate, the Ombudsman can look at our records, check our procedures and formally interview all those that were involved with the decision.

If the Ombudsman finds the council has not done what it said it would or should have done in law, they will say maladministration has occurred. They also consider whether the complainant has suffered a significant injustice, that is, has the error caused the complainant to suffer a genuine problem or upset.

At worst, the Ombudsman can decide to publish a public report against the council, which is also sent to Council Cabinet for response, and to the local press. Over recent years, Kirklees has received a maximum of one report a year, so this outcome is comparatively rare. We are more likely to receive a report if we are considered to not be learning from the outcome of the investigation.

The Ombudsman can also ask the Council to pay some compensation to the complainant, to reconsider and alter its procedures, and ask it to provide a service to the complainant.

# Model School Complaints Policy

**It is the responsibility of individual schools to respond to complaints about the school. This document is intended to assist headteachers and governors to draw up a policy and procedure that enable them to deal effectively with any concerns raised. Schools may, if they wish, amend the model procedure to meet their own needs.**

The school also has a duty under the Education Act 2002 to publicise the procedure. This can be done by including a summary in the school's prospectus, displaying posters or leaflets, or on the school's website.

Should anyone contact the local authority regarding a school complaint, they will be provided with information on the procedure and encouraged to contact the school directly. The Complaints Officer will also endeavour to inform the Head Teacher of any calls that have been made to the LA regarding a complaint about their school.

A complaint is defined as:

***“An expression of dissatisfaction or disquiet in relation to a school or teacher, which requires a response.”***

Pupils, parents or carers can make a complaint to the school about most aspects of its function including:

- Attitude / behaviour of staff
- Teaching and learning
- Application of behaviour management systems
- Bullying
- Provision of extra-curricular activities

The Local Authority retains responsibility for

- The National Curriculum
- Collective Worship in schools  
(In the case of denominational schools, concerns relating to worship and spiritual matters may be referred to the relevant Diocese or Archdiocese.)
- Provision of support services e.g. SEN, education welfare, educational psychology

Complaints about these matters should be referred to the relevant officer in Children & Young People Service.

Members of the general public may make complaints to the school if the school is directly responsible for the issue being complained about e.g.

- Behaviour of pupils during break-times
- Disturbance to neighbours during school hours
- Health and Safety issues of premises
- Behaviour of staff

Schools are not responsible for the actions or behaviour of pupils outside school hours.

*Legal, child protection or disciplinary proceedings take precedence over complaints procedures and timescales.*

# Model School Complaints Procedure

## General principles

The school should be clear about the difference between a concern and a complaint. By taking informal concerns seriously at the earliest stage, the numbers that develop into formal complaints can be kept to a minimum.

The underlying principle is that concerns ought to be handled without the need for formal procedures. For example, it would be helpful if the staff receiving the first approach were able to resolve issues on the spot, including apologising, where necessary.

Formal procedures need only to be started when initial attempts to resolve the issue are unsuccessful and the person raising the concern remains dissatisfied and wishes to take the matter further.

The school should:

- welcome complaints as a positive means of promoting pupil/parent satisfaction
- use complaints as a way of identifying opportunities to do things better
- listen to pupils and parents
- seek to resolve complaints swiftly
- reply with an acknowledgement letter in the first instance if a complaint is sent in by letter and state you are looking into the matter (*nothing inflames a situation more than failure to acknowledge*)
- have clear, simple to understand and use, published procedures for making complaints (**schools are required by law to have, and to make available to parents, their complaints procedures**)
- keep complainants informed about progress
- provide redress where a complaint is found to have substance
- regularly review how effective the complaints procedure is

## Investigating complaints

The person who takes forward the first formal procedure should make sure s/he:

- establishes what has happened so far and who has been involved
- clarifies the nature of the complaint and what remains unresolved
- meet the complainant or contacts them if further information is required
- clarifies what the complainant feels would put things right
- interview those involved, with an open mind
- keep notes of any interviews.
- keep the chair of governors informed without giving any details at this stage

# Model School Complaints Procedure

## Resolving complaints

At each stage, the school should keep in mind ways the complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part. It might also be appropriate to offer:

- an apology
- an explanation
- an admission that the situation could have been handled differently or better
- an assurance that the event complained of will not recur
- an explanation of the steps taken to make sure it will not happen again
- an undertaking to review school policies in light of the complaint.

The school should encourage complainants to state what actions they feel might resolve the problem at any stage. ***Please remember: an admission that the school could have handled the situation better is not the same as an admission of negligence.***

## The awkward or vexatious complaints

A good complaints procedure will limit the number of complaints that become protracted. But there will be occasions when a complainant becomes dissatisfied even though all stages of the procedure have been followed. If the complainant tries to re-open the same issue, again, the chair of governors can write to say that the procedure has been exhausted and the matter is now closed.

## Timescales

The school will consider and resolve complaints as quickly and efficiently as possible and set realistic time limits for each action. However, where investigations are complex, new time limits can be set as long as school informs the complainant of the reason for the delay and give them new deadlines.

## Stage One

### Complaint heard by a staff member

It is in everyone's interest to resolve complaints at the earliest possible stage. The experience of the first contact between the complainant and the school can be crucial in determining whether the complaint will escalate. Staff should be fully aware of the procedures and know what to do if and when they receive a complaint.

A complainant might feel they would have difficulty discussing a complaint with a particular member of staff. Be flexible and refer the complainant to

# Model School Complaints Procedure

another member of staff. If the complaint is about the headteacher, the complaint should be referred straight to the chair of governors.

If a staff member directly involved feels compromised and unable to deal with the matter, once again refer to another staff member. This does not have to be a more senior member of staff; the ability to consider a complaint objectively and impartially is more important.

If a complainant approaches a governor in the first instance, the complainant should be referred to an appropriate member of staff. Governors should not act on individual complaints outside the formal procedure or be involved in the early stages in case they need to sit on a panel at the later stage.

## 2 Stage Two

### **Complaint heard by the headteacher**

The headteacher will have shaped the way complaints are handled in a school and will have decided who is the most appropriate person to deal with a complaint. In a large school it may be the deputy head or a head of year. The headteacher should be kept informed of any investigation carried out and should be involved in the final decision.

If the complaint is by letter the headteacher should acknowledge the complaint within 3 school days. The acknowledgement should include a summary of the complaints procedure and a target date of 15 school days for providing a response. If this date cannot be met, the complainant should be contacted and given a reason for the delay and a revised target date.

The headteacher should meet with the complainant to discuss their concerns and find solutions. The complainant may bring a friend, family member or advocate to the meeting and Interpreting services should also be made available where necessary. The Head Teacher may find it useful to have another member of staff present to observe and record the meeting and promote staff safety. Care should be taken in these circumstances not to create an intimidating atmosphere for the complainant.

The Head Teacher should make whatever enquiries s/he considers necessary to ascertain the facts and the legitimacy of decisions taken. This may include

- Interviewing staff / pupils
- Reviewing minutes of meetings
- Reviewing school records

Pupils should be interviewed in the presence of another member of staff, or in the case of serious complaints (e.g. where the possibility of criminal investigation exists) in the presence of their parents. Again, care should be taken in these circumstances not to create an intimidating atmosphere.

It is important that the headteacher investigates complaints thoroughly and objectively. If s/he feels unable to do this (e.g. if s/he has been directly

# Model School Complaints Procedure

involved in the decision making process that led to the complaint) s/he should delegate responsibility for investigating the complaint to another member of the management team or the chair of governors. It is strongly advised that the headteacher (or designated person) should keep a record of interviews, telephone conversations and other documentation.

Once all the relevant facts have been established, the headteacher should provide a written response to the complainant. This should include a full explanation of decisions taken and the reasons for them. Where appropriate, it should include details of actions the school will take to resolve the complaint.

It may be useful at this point to offer the complainant a meeting to discuss the response and seek reconciliation. The complainant should be provided with details of how to contact the Governing Body if they are not satisfied with the response.

## Stage Three

### **Complaint passed to Chair of Governors**

The Chair of Governors decides whether to convene the Complaints Committee to look into the complaint or commission the LA to start an investigation. If the complaint is about the headteacher then the Chair will pass it directly to the LA.

## Stage Four

### **-The Governors' Complaints Committee**

If the Complaints Committee is activated this is the last school based stage of the process and should not be perceived as a rubber stamp exercise.

The meeting should allow for

- The complainant to explain their complaint and the headteacher to explain the school's response.
- Witnesses to be brought by the complainant or the headteacher.
- The headteacher and the complainant to ask questions of each other and any witnesses.
- The committee to ask questions of the complainant, headteacher and any witnesses.
- The complainant and the headteacher to summarise their position

Having considered all the evidence and questioned all parties, the Committee can:

- dismiss the complaint in whole or in part
- uphold the complaint in whole or in part
- decide on the appropriate action to resolve the complaint
- recommend changes or actions to school system and procedures to make sure that similar problems do not recur or
- request an investigation by an officer of the local authority.

# Model School Complaints Procedure

A written response detailing the decisions, recommendations and the basis on which these have been made should be sent to the complainant within 15 school days.

The school should retain a copy of all correspondence and records of meetings.

*The Complainant should be notified of the right to appeal to the Secretary of State for Education or the Local Government Ombudsman if they are unhappy with the way in which procedures have been carried out.*

## Withdrawing a Complaint

Complaints may be withdrawn in writing at any time.

The headteacher and Chair of Governors should review the issue of concern and consider whether further investigation is required through other internal management systems.

**1** Stage One Many concerns can be resolved quickly with goodwill, often by making early contact with the class teacher or Head of Year. If this is not possible, or the teacher is unable to resolve the concern, the parent, carer or pupil should contact the Head Teacher or Deputy Head Teacher.

The person who receives the complaint should attempt to work with the family to resolve the complaint informally. This may involve

- Mediation and conciliation
- Explaining policies or decisions
- Helping the pupil to express their views to another person
- Review of educational provision
- Review of support services

**2** Stage Two If the pupil, parent or carer are not satisfied with the outcome of the informal investigation, they may wish to make a formal complaint. This should be done in writing to the Head Teacher.

If the complaint is about the Head Teacher, or if the problem is not resolved, the matter should be referred to the Chair of Governors of the school.

The school and its governors have a duty in law to act properly and investigate complaints impartially. Once investigations are complete the person making the complaint should receive a written response from the school.

**3** Stage Three Pupils, parents and carers who are not satisfied with the outcome of the investigation and wish to pursue a complaint regarding a school issue can refer the complaint to a review committee of Governors, known as the complaints panel.

This can be done by writing to the Clerk to the Governing Body. The aim of the panel is to establish any areas of agreement and identify actions that can be taken to resolve the complaint.

**4** Stage Four If all other attempts to resolve the complaint have been unsuccessful the pupil, parent or carer may refer their complaint to the Local Government Ombudsman or Secretary of State for Education.

# Services Not Covered by Complaints Procedures

The complaints procedure does not apply to proceedings where there is an existing appeals process e.g. SEN provision, allocation of school places, exclusions.

## **Special Educational Needs**

Where there are difficulties regarding SEN provision, parents can get support and information from the Parent Partnership. Where there is a clear disagreement, Children's Services has a duty to provide opportunities for disagreement resolution. They should demonstrate independence and credibility in working towards early and informal resolution of disagreements. Parents have a right of appeal, which can be lodged with the Special Educational Needs Tribunal. This is not affected by entering into disagreement resolution. Disagreement resolution can run alongside the appeals process.

## **School Admissions**

If a child is not offered a place at their preferred school after going through the admission criteria, they have the right to appeal to an Independent Appeals Panel. These Panels are set up in accordance with the requirements of the School Standards and Framework Act 1998. Appeals may be presented in person by the parent or a representative of their choice, or they can request that a written appeal be considered.

The Appeals Panel will take the family's reasons and the authority's admission arrangements into consideration when reaching its decision. The Appeals Panel's decision will be completely independent of any previous decision taken by the admissions authority and is binding upon all parties i.e. the Local Authority or governors and the parents.

Only one appeal will be considered in each academic year unless there have been significant changes in the circumstances relevant to the application.

## **Exclusions**

If a child is excluded from school, their parent may make a representation to the Governing Body of the school. If they are not satisfied with the outcome the decision can be appealed to an independent panel. This must be done in writing within 15 school days of the Governing Body's decision.

# Links to Other Procedures

## **Concurrent Considerations**

The following procedures may be defined as concurrent considerations. If there is a risk that dealing with a complaint might prejudice a concurrent consideration, the complaints procedure will be suspended until the concurrent consideration is concluded. The Complaints Officer must write to the complainant explaining the reason for the decision and the nature of the concurrent consideration. Once the concurrent consideration is concluded, the complaint can be resubmitted.

## **Legal Proceedings**

Where the complaint becomes subject to legal proceedings, or where the local authority is engaged in legal proceedings against the person making the complaint, the Complaints Officer must liaise with the Legal Services to agree what action can be taken on the complaint.

## **Personnel Procedures**

If the details of the complaint allege that a criminal offence has been committed, the Complaints Officer must liaise with a senior manager regarding any duty to report this to the police.

Procedures are in place to deal with allegations of abuse against centrally employed or school-based members of staff. The lead officer in relation to such allegations is the Human Resources Manager. In the case of other complaints from service users where disciplinary proceedings may apply these procedures take precedence. The Complaints Officer will contact the Human Resources manager to discuss what action is to be taken. The person making the complaint should have their complaint acknowledged and be informed that they will be notified when investigations are complete. (This would normally be within 20 working days but may be extended by a further 20 working days if the decision is appealed). In order to preserve the confidentiality of the member of staff, the details of this process should not be disclosed to the person making the complaint.

## **Whistleblowing**

Kirklees Council's Whistleblowing policy stands alongside the Complaints procedure. Any member of staff who wishes to raise a concern about the practice of the Authority or any of its officers may contact their line manager, their departmental Director.

## **Child Protection**

Although the local authority has lead responsibility for child protection matters, complaints regarding the conduct or practice of partner agencies during Child Protection procedures should be referred to that organisation's own procedures. Complaints regarding the conduct or practice of Children's Services employees are covered by the existing complaints procedure.

Parents, carers or children wishing to make a complaint regarding

- The process of the child protection case conference
- The outcome / decision of the case conference

should do so through the conference chair.

The conference chair has a responsibility to inform the Complaints Officer of any complaints made. The local authority should then convene an inter-agency panel comprising senior members of member agencies of the LSCB. This panel should review the process and decisions of the conference. If the complaint is upheld, they should make a recommendation to a re-convened case conference under a new chair.

# Recording, Reporting and Improving Service Delivery

The Complaints Officer will keep a record of all complaints received, what action was taken to resolve them, the outcome and compliance with timescales.

To assist in this, staff should notify the Complaints Officer of all complaints received in line with the specified procedures.

The information will be recorded by the complaints officer designated to monitor or process complaints within each section of the Children's Service.

An annual report on this information will be produced and submitted to Senior Management Meeting.

Where patterns or weaknesses in service delivery are identified, these will be discussed with the relevant team or management group to agree ways to improve overall service delivery.

In addition to the annual report, summary reports will be produced throughout the year to highlight good practice and significant issues particular to certain service areas. This will encourage service development as an ongoing response to issues raised in complaints.

## **The Complainant**

The complainant is the person who makes the complaint.

The complainant will receive more effective responses to the complaint if s/he:

- co-operates with the local authority in seeking a solution to the complaint;
- expresses the complaint in full as early as possible;
- responds promptly to requests for information or meetings or in agreeing the details of the complaint;
- asks the Complaints Manager for assistance as needed; and
- treats all those involved in the complaint with respect.

## **Role of the Advocate**

The advocate should provide independent and confidential information, advice, representation and support to the child or young person making the complaint. The role of the advocate in the complaints procedure is:

- to empower the child or young person by enabling him to express his views, wishes or feelings, or by speaking on his behalf;
- to seek the resolution of any problems or concerns identified by the child or young person by working in partnership with the child or young person and only with his agreement;
- to support the child or young person pursuing a complaint through every stage of the complaints procedure and to provide him with information about his rights and options, helping him clarify the complaint and the outcomes he is seeking; and
- to speak for or represent the child or young person at any stage of the complaints process, including at the informal stage or at any formal hearing or interviews.

## **Role of the Children and Young People's Rights Officer**

The role of the Children and Young People's Rights Officer is to work with staff and young people to develop opportunities for young people to express their views on how services can be improved and become involved in the decision making process on a personal and strategic level.

The Children and Young People's Rights Officer will not have responsibility for responding to complaints.

Children and Young People's Rights Officer may however work with the young people and the Complaints Officer to monitor, review and develop the Children's Complaints Service.

## **Role of the Investigating Officer (Children Act Complaints)**

The Investigating Officer has overall responsibility for investigating the complaint at Stage 2.

The Investigating Officer's undertakings may include:

- providing a comprehensive, open transparent and fair consideration of the complaint through:
  - sensitive and thorough interviewing of the complainant;
  - consideration of social work records and other relevant information;
  - interviewing with staff and other people relevant to the complaint; and
  - analysing information;
- preparation of the report of the investigation in a clear, plain language;
- effectively liaising with the complainant or his advocate, the Independent Person and the Complaints Manager as appropriate; and
- identifying solutions and recommending courses of action to resolve problems.

Given the importance of providing an efficient response to the complainant, the Investigating Officer will need to prioritise his work effectively and have due regard to the regulated timescales for investigation.

## **Role of the Independent Person (Children Act Complaints)**

Local authorities must involve an Independent Person (IP) in the investigation of complaints at Stage 2. The person appointed should be neither an Elected Member nor an employee of the local authority, nor a spouse of an employee or member of the authority. Former local authority staff are eligible, but good practice would suggest at least three years have elapsed since they were employed by the local authority.

The Independent Person may not undertake any other roles in the consideration of the same complaint (such as advocate, or Review Panellist).

The Independent Person should:

- ensure that the process of investigation is open, transparent and fair;
- work alongside the Investigating Officer to provide an independent and objective view to the investigation of complaints;
- see the same relevant files and documents as the Investigating Officer;
- participate in all interviews and discussions relevant to the investigation;
- read the Investigating Officer's report and produce his own report on the investigation;
- comment on each of the complaints and state whether he agrees with the Investigating Officer's findings on them; and
- explain, where necessary, his reasons for considering an investigation to be unfair or incomplete and to advise the complainant of these in his report.

## **Role of the Senior Officer**

A senior officer, within the context of this guidance, is a manager with a senior position to make strategic decisions regarding service delivery.

Senior managers fulfil three specific roles and should liaise with the Complaints Manager as necessary in delivering these:

**1 Investigator (Corporate Complaints)**

**2 Adjudicating Officer (Children Act Complaints)**

The purpose of the Adjudicating Officer is to consider the complaints, the Investigating Officer and Independent Person's findings, conclusions, and recommendations and the complainant's desired outcomes.

The Adjudicating Officer writes to the complainant at the end of Stage 2 with details of the adjudication and copies of the investigation report and the Independent Person's report.

**3 Departmental Representative at the Review Panel (Children Act Complaints)**

# Roles and Responsibilities

## Role of Review Panel Chair

The role of the Chair is to:

- confer with the Complaints Manager about the specific needs of the complainant;
- agree who will attend as the local authority representative and request the attendance of any other persons who may assist in understanding the complaint and its context;
- chair the Panel meeting by ensuring that the complaint is heard in full;
- operate flexibly in response to the individual needs of each participant is given an opportunity to contribute appropriately;
- ensure that the Panel runs smoothly and that each participant is given an opportunity to contribute appropriately;
- ensure that all participants are treated with respect throughout the process;
- in consultation with the other Panellists, ensure that the pre-meeting, presentations and deliberations are of proportionate length to ensure appropriate consideration of the complaint and to enable the Panel to reach its conclusions;
- manage the Panel's deliberations to produce a timely and full response to the complainant and local authority within five working days of the Panel meeting;
- ensure that any disagreements of position among the Panellists are recorded and seek to reach a majority decision where necessary; and
- be available to meet local authority staff, if needed, after the Panel meeting to discuss any recommendations arising.

## Role of Review Panellist (Children Act Complaints)

The Panel consists of a Chair and two other people appointed by the local authority. All Panel members must be independent – this means people who are neither members nor officers of the local authority to which the representations have been made, nor the spouse or civil partner of such people. In appointing the Panel Chair, former members or officers of the local authority may be considered on a case-by-case basis,

The panellist should:

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

# Roles and Responsibilities

## Role of the Ombudsman

- To investigate whether there has been any maladministration on the part of the local authority
- To make recommendations on action to be taken if maladministration is found.
- To report publicly on any cases where maladministration is found.

## Role of Independent Reviewing Officers

Independent Reviewing Officers (IROs) do not have a role in instigating the complaints procedure themselves, and should not stand in the way of complaints being made. They will have a role when they meet children to inform them that they have a right to make complaints to the local authority, and of the local authority's responsibility to provide them with an independent advocate should the child so wish.

The IRO may be part of the solution to the problem, and the Complaints Manager may consult with the IRO to determine what options are available. An outstanding formal complaint using the local authority's complaints procedure should not prevent the IRO from fulfilling their role in resolving problems by negotiation. The IRO may have a role in communicating both with the child and with the Complaints Manager. The IRO should not prejudice the complaints procedure but their work may help to speed up the process or even hold a key to its resolution. The IRO should become involved in serious complaints concerning children's care plans. They should not usually need to get involved in more minor complaints about a child's day to day care.

In all cases, the welfare of the child is the primary concern. IROs will need to make a judgement about whether a problem raised via a complaint is serious enough to constitute a breach of the child's human rights such as to justify making a referral to CAFCASS, or whether it would be reasonable to await a resolution through the complaints procedure, with or without additional support of the IROs own negotiation.

# Useful Addresses

## **Children and Young People Service**

Complaints, Comments & Compliments Unit  
Oldgate House  
2 Oldgate  
Huddersfield, HD1 6QF

01484 225140

## **Children and Young People's Rights**

Kirklees Children's Rights Service  
2<sup>nd</sup> Floor  
Brian Jackson House  
New North Parade  
Huddersfield, HD1 5JP

01484 223388

## **Citizen's Advice Bureau**

2nd Floor, Standard House, Half Moon Street, Huddersfield, HD1 2JF  
Units 5/6 Empire House, Wakefield Old Road, Dewsbury, WF12 8DJ  
[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

0844 848 7970

## **Local Government Ombudsman**

PO Box 4771, Coventry, CV4 0EH

0300 061 0614

## **Ofsted**

Royal Exchange Buildings, St Ann's Square, Manchester, M2 7LA

08456 404040

## **Secretary of State for Education**

Department for Education and Skills, Sanctuary Buildings,  
Great Smith Street, London SW1P 3BT  
[www.dfes.gov.uk](http://www.dfes.gov.uk)

0870 000 2288

## **Every Child Matters**

[www.everychildmatters.gov.uk](http://www.everychildmatters.gov.uk)