

**Bath and North East Somerset  
Children's Service  
Children's Young People and Family Division – Specialist Services  
Complaints and Representations Procedure**

## Introduction

The Council is committed to providing high quality services. Feedback from children, young people, their families and carers is welcomed and encouraged. It helps the service to put things right for the individual when they have gone wrong and provide valuable information that can be used to learn and improve services.

Feedback includes compliments, complaints and suggestions.

### 1. Legal, regulatory and policy framework

These procedures will comply with and operate within the provisions of all relevant legislation, Council policies and procedures.

The Children Act 1989 <http://www.legislation.gov.uk/ukpga/1989/41/contents> as amended by the Adoption and Children Act 2002 <http://www.legislation.gov.uk/ukpga/2002/38/contents> imposes a duty on every local authority to establish a procedure for considering representations, including complaints, made by children, young people, parents, foster carers and other adults about the discharge by the local authority of any of their functions in relation to a child.

The Children Act 1989 Representations Procedure Regulations 2006 <http://www.legislation.gov.uk/uksi/2006/1738/part/1/made> set out how the procedure should work.

These regulations should be read in conjunction with "Getting the best from complaints" <https://www.gov.uk/government/publications/childrens-social-care-getting-the-best-from-complaints>.

### 2. Definitions

A **complaint** is an expression of dissatisfaction or disquiet in relation to an individual child or young person about the actions, decisions or apparent failings of a Council service.

A **comment** is a suggestion or observation about services provided.

A **compliment** is a positive remark about a service or an individual.

### 3. What can be Complained About?

A complaint can arise as a result of many things relating to statutory children's social care functions such as:

- An unwelcome or disputed decision;
- Concern about the quality or appropriateness of a service;
- Delay in decision making or provision of services;
- Delivery or non-delivery of services including complaints procedures;
- Quantity, frequency, change or cost of a service;
- Attitude or behaviour of staff;
- Application of eligibility and assessment criteria;
- The impact on a child of the application of a local authority policy; and
- Assessment, care management and review.

This is not an exhaustive list and the Complaints Manager should seek legal advice as necessary.

Specifically, a complaint may be about the following:

- The decision by the local authority to initiate **Care Proceedings**;
- The effect of a **Care Order** and the local authority's actions and decisions where a Care Order is made;
- Issues relating to contact between parents and children subject to Care Orders;
- How supervisors perform their duties where a **Supervision Order** is in force;
- Actions of the local authority regarding applications for and duties in relation to **Child Assessment Orders**;
- Matters relating to applications for **Emergency Protection Orders** and decisions relating to the return of children who have been removed;
- The quality or accuracy of social work information or a social work report provided to a Court;
- The conduct of a social worker in court.

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

- The provision of Adoption Support Services insofar as these enable adoptive children to discuss matters relating to adoption;
- Assessments and related decisions for adoption support services;
- Placing children for adoption, including **Parental Responsibility** and contact issues (see **Placement for Adoption Procedure**);
- Removal of children who are or may be placed by adoption agencies;
- Removal of children in non-agency cases;
- The carrying out by the local authority of its duties on receipt of a notice of intention to adopt;
- The carrying out by the local authority of its duties in respect of
- Considering adoption for a child;

- A proposed placement of a child with prospective adopters;
- Adoptive placements and reviews;
- **Adoption Case Records**;
- Contact; and
- Parental Responsibility prior to adoption abroad.

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

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

#### **4. What cannot be complained about?**

Every complaint will be considered on its individual merits and a decision will be made as to whether the complaints procedure should be implemented. Decisions to exclude complaints from the process are made by the Complaints Manager in consultation with relevant senior managers and legal services where appropriate. The Complaints Manager has discretion in deciding whether to consider complaints where to do so would prejudice any of the following concurrent investigations:

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

Once the concurrent investigation has been concluded the complainant may resubmit their complaint to the local authority as long as it is within one year of the conclusion of the concurrent investigation.

Complaints will not be considered, or considered further, if the complaint is not about the actions or decisions of the Council, or any organisation acting on its behalf or if the same complaint has been responded to through the complaints procedure or by the Local Government Ombudsman or the Information Commissioner.

If the Complaints Manager considers that a complaint is not appropriate to be considered, or further considered, under this procedure, the complainant will be informed of this in writing. The complainant will be given reasons and, where applicable, will be directed to the more appropriate means of addressing the issue they have raised.

## 5. Who may make a Complaint?

A complaint may be made by:

- Any child who is a **Looked After Child** or who, although not Looked After, is a **Child In Need**;
- A parent or person with **Parental Responsibility**;
- A local authority Foster Carer;
- Such other person as the authority consider has sufficient interest in a child's welfare to warrant a complaint or representation being considered by them;
- An **Eligible Young Person**, **Relevant Young Person** or **Former Relevant Young Person**;
- A **Qualifying Young Person** under the Leaving Care procedures;
- A person aged up to 24 who is or was a Former Relevant or Qualifying young person and whom the local authority may still assist in connection with education and training;
- Special Guardians;
- A child in respect of whom a **Special Guardianship Order** is in force;
- Any person who has applied for an assessment for special guardianship support;
- Any child who may be adopted, their parents and guardians;
- Any person wishing to adopt a child;
- Any person to whom arrangements for the provision of adoption support services extend;
- Adopted persons, their adoptive parents, birth parents and former guardians.

## 6. Complaints made on behalf of a child

Where a complaint is made on behalf of a child, the Complaints Manager will confirm where possible that the child is happy for this to happen and that the complaint submitted reflects his or her views. This is subject to the children's age and understanding.

The Council has the discretion to decide whether the representative is suitable to act in this capacity or has sufficient interest in the child's welfare. If the Council considers that the representative does not have sufficient interest, the representative will be notified in writing, explaining that no further action will be taken.

## 7. Anonymous Complaints

Anonymous complaints should always be recorded and referred to the Complaints Manager in the same way as other complaints. Anonymous complaints fall outside of the scope of the statutory procedure and it is for the local authority to decide what action it should take. The fact that the complaint is from an anonymous source should not in itself justify a decision not to pursue the matter. Nor should it rule out referral to other procedures as relevant.

## **8. Time Limit to Complaints**

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

The time limit can be extended at the local authority's discretion if it is still possible to consider the representations effectively and efficiently and/or where it would be unreasonable to expect the complainant to have made the complaint earlier.

Examples of possible grounds for accepting the complaint after one year include:

- The child or young person was not able to make the complaint or did not feel confident in bringing it forward in the year time limit.
- The delay in complaining is beyond the control of the complainant, eg new evidence has become available
- There is likely to be sufficient access to information or individuals involved at the time to enable an effective and fair investigation to be carried out.

## **9. Freezing Decisions**

In some circumstances a complainant may wish to challenge or change a decision about service provision. The relevant senior manager, in consultation with the Complaints Manager, will decide whether the decision complained about will be suspended or postponed while the complaint is been dealt with, taking into consideration all the facts of the case, including risk assessment. Decisions will be made on a case by case basis, but generally there will be a presumption in favour of freezing, unless there is good reason against it. The complainant will be informed.

## **10. Informing Children about the Complaints Procedure**

Children and Young People will be informed about the Complaints Procedure in a variety of ways suitable to their needs and level of understanding. Information is available to download from the Council's website and members of staff are expected

to have this available to share with children and young people whilst working with them. The information includes an explanation of the role of an Advocate and provides contact details for advocates to make complaints on children's behalf. An information leaflet is available for younger children.

Children and Young People who are accommodated by the local authority can also use the MOMO app (Mind of My Own).

## **11. Advocacy and Support**

Where children or those acting on their behalf express a wish to make a complaint, they should be given any information or advice they require on how to use the Complaints Procedure. Their options must be carefully explained including information and advice on alternative methods for resolving their dissatisfaction. All children and young people who are eligible to access the Complaints Procedure have a right to support from an advocate (Adoption and Children Act 2002 (s 117)).

Anyone receiving a complaint from a young person should ensure that they are aware of this right and offer help to contact the advocacy service. Details about how to contact Shout Out! can be found on the Information Sheet.

The timescale for responding to a complaint can be extended by up to 10 working days to allow the young person to meet with their advocate and explain their concerns.

Advocacy is also available to parents and carers from the Care Forum, however, the help and advice offered by the Care Forum will vary depending on need and availability of appropriate support.

## **12. Receiving Complaints**

Comments, complaints and compliments can be made verbally or in writing, including by email or text.

A comment, complaint or compliment about services to children should be recorded by the person receiving it and forwarded directly to the Complaints and Data Protection Team.

The emphasis will be on ensuring that anyone who complains will have their concerns resolved swiftly and, wherever possible, by the people who provide the service locally.

However, where a complaint includes an allegation of **Significant Harm**, the matter must be directed to be dealt with under the Safeguarding Procedures and must be referred to the Duty Team for this purpose immediately.

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

### **13. The Complaints Procedure**

#### **Stage One - Local Resolution**

The purpose of the Local Resolution stage is to encourage a dialogue between the complainant and the manager which will allow both to understand the view of the other, and, wherever possible, agree on a way of resolving the complaint.

If comments made about a service indicate dissatisfaction with the service, the manager receiving the complaint should try to resolve them quickly. Wherever appropriate, complainants should be asked to agree to a 'local' resolution and be advised how to take their complaint forward if the issue has not been resolved. In all cases where complaints are received, the Complaints Manager must be informed.

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

- Acknowledge the complaint within 2 working days, notifying the complainant of where the complaint has been forwarded and the timescale within which a response will be sent, and establish whether the child has or requires an advocate;
- Notify the appropriate line manager;
- Request that the line manager attempt to resolve the complaint within 10 working days and send a copy of the response to the Complaints Manager, together with a brief resume of any points not covered in the letter.

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

During this time the manager is responsible for making relevant enquiries. A face to face meeting with the complainant is always encouraged but where this is not possible it is expected there will be a telephone conversation.

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

If the Complaints Manager believes that it would not be appropriate to consider the complaint at Stage One, this can be discussed with the complainant. Where both parties agree, the complaint will move directly to Stage Two.

Where there is disagreement about the handling of the complaint, the complainant will be advised in writing of their right to refer their complaint to the Local Government Ombudsman.

### **Stage Two – Independent Investigation**

Complainants should be encouraged to make a written complaint, but do not have to do so. A complaint may be accepted in any form. Where a complaint is not in writing, however, the Complaints Manager can arrange to meet the complainant to make a written record of the complaint which is then agreed with the complainant.

### **Action on Receipt of Complaint**

Upon receiving a complaint, the Complaints Manager will:

- In some circumstances, contact the complainant direct to discuss whether it may be possible to mediate or negotiate a settlement;
- Record the complaint. At this stage the Complaints Manager will decide whether the complaint should be investigated under this procedure or whether it should be referred elsewhere, for example under staff disciplinary procedure;
- Appoint and prepare terms of reference for an Investigating Officer (who is not involved in the management of the services to the child concerned) and an Independent Person (who cannot be an employee or an elected member of the authority) to the investigation. The Independent Person is appointed to shadow the Investigating Officer. Under the arrangement, the Independent Person accompanies the Investigating Officer throughout the investigation and may see the child concerned alone if considered necessary;
- Acknowledge receipt of the complaint within 7 days, and advise the complainant of how the complaint is being dealt with, the timescales and the name of the Investigating Officer.
- The Complaints Manager and the Investigating Officer should consider whether it is necessary to halt a particular aspect of the case pending investigation, for example, where there are ongoing Court proceedings.

## **The Investigation**

Upon being appointed, the Investigating Officer will:

- Attend a 'Scoping' Meeting with the Complaints Manager and Independent Person;
- Conduct an investigation, interviewing the complainant and staff as appropriate;
- Produce a report making recommendations about action to be considered;
- Send a copy of the report to the Complaints Manager bearing in mind that this, together with the local authority's response, needs to be sent to the complainant within 25 working days of the receipt of the complaint. If this timescale is not possible, the Investigating Officer should consult with the Complaints Manager and agree a timescale for extension. In any event, this extension must not exceed a full response to the complaint within 65 working days.  
The Complaints Manager will inform the complainant of this agreement and the reason for the extension to the timescale, and wherever possible obtain the complainant's agreement to the new timescale;

Staff and carers need to be aware that it is a legal requirement upon the authority to undertake investigations when a complaint is made. It is therefore essential that they cooperate with the investigation and provide information to the Investigating Officer through their verbal responses to questions and access to written material.

## **Action Following Investigation**

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

- Ask the senior manager for his or her adjudication, in consultation with others as necessary, and what action the local authority will be willing to take in relation to the investigation's recommendations;
- Send a copy of the Investigating Officer's report, the Independent Person's report and the local authority's response to the reports to the complainant. This must be sent within a maximum of 65 working days of receipt of the complaint;
- Advise the complainant of the right to submit a request to the Complaints Manager within 20 working days that the complaint proceed to a Stage Three Review Panel;
- Monitor the outcome of the complaint in terms of actions agreed at the adjudication stage.

## **Stage Three - Review Panel**

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

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

- Employees of the authority;
- Elected members of the authority;
- A spouse or partner of either of the above.

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

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

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

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

Panel papers should be sent to Panel members and other attendees as soon as these have been agreed by the Chair and no later than 10 working days before the date of the Panel. These should normally include:

- information on Stage 1 (as relevant);
- the Stage 2 investigation report(s);
- the local authority's adjudication, any policy, practice or guidance information relevant to the complaint;
- and, any comments that the complainant has submitted to the Panel.

The papers should also include information on any local practice around Panels, such as conduct, roles and responsibilities.

The Review Panel's recommendations will be recorded in writing and copies sent to the Strategic Director for People and Communities within 5 working days.

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

In terms of the Complaints Procedure, there is no further action that the complainant can take to progress a complaint. Complainants will be advised of their right to make representations to the Local Government Ombudsman if they are still not satisfied.

Detailed procedures and information sheets are available on all stages of the procedure and can be accessed on the internal webpage by staff. They will be sent to complainants by the Complaints and Data Protection Team as appropriate.

#### **14. Learning from Complaints**

At the conclusion of Stages Two and Three, the Complaints and Data Protection Team will complete an action plan for each individual complaint and maintain an Action Plan Log.

The Action Plan will record the finding of the Investigating Officer (Stage 2) or the Review Panel (Stage 3), the comments of the Adjudicating Officer and any remedial action to be taken. This is forwarded to the appropriate Service Manager who will task managers and staff within the service to carry out the actions and report to them when completed. This information will be shared with the Complaints and Data Protection Team.

The Complaints and Data Protection Team will monitor the progress on the Action Plans and will follow up outstanding actions.

The Service will need to provide evidence of how the action has been addressed e.g. a link to a revised procedure, notes from a team or management meeting or copies of correspondence.

The Complaints Manager will include an update on the Action Plan Log with the Quarterly report to Divisional Director to ensure all action is taken and to identify themes and how this learning can be incorporated into service planning.

#### **15. Complaints concerning other services, bodies and agencies**

Complaints can relate to the work of more than one organisation. Examples include NHS, other local authorities, schools, child care organisations, Probation services, Housing Associations, voluntary or private sector organisations.

Wherever possible, the Council will work with other agencies to ensure that complainants receive joint timely responses. This will be agreed with the

complainant and appropriate consent will be obtained. The lead agency will ensure that complainants are kept informed. Each agency will contribute to a single joint reply. However, each agency will retain its individual duty of care for service users.

Complaints about the Multi-Agency Safeguarding Hub (MASH):

Complaints received about the MASH will be dealt with by the Team Manager for the Duty Team under the Children Act Complaints Procedure (as above). The exception to this is where the complaint relates specifically to the actions of a member of staff from another agency. In this case the complaint will be referred to that agency for it to be dealt with under its own Complaints Procedure.

Complaints relating to the Local Safeguarding Children's Board

If complaints are received about the actions (not decisions) of the LSCB, a separate procedure exists which is managed by the Council.

[http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Children-and-Young-People/ChildProtection/lscb\\_escalation\\_policy\\_for\\_resolving\\_professional\\_disagreement\\_4.pdf](http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Children-and-Young-People/ChildProtection/lscb_escalation_policy_for_resolving_professional_disagreement_4.pdf)

Complaints about Child Protection Case Conferences

There is a separate process for parents, carers and children who are involved in Child Protection Conferences and Reviews, and who think the Conference did not follow the correct process, used wrong information, decided on the wrong category of primary concern, or made the wrong decision about making or stopping a Child Protection Plan.

[http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Children-and-Young-People/ChildProtection/guidance\\_for\\_parents\\_complaints\\_and\\_appeals\\_procedure\\_february\\_2015.pdf](http://www.bathnes.gov.uk/sites/default/files/sitedocuments/Children-and-Young-People/ChildProtection/guidance_for_parents_complaints_and_appeals_procedure_february_2015.pdf)

Complaints about schools:

Complaints received which refer specifically to a school are the responsibility of the school itself and should be dealt with under its own procedures. More information about how to complain about a school can be found on the gov.uk website:

<https://www.gov.uk/complain-about-school>

## **16. Complaints which fall outside the scope of the statutory procedure**

In cases where the complaint falls outside the scope of the statutory complaints procedure it might be appropriate to deal with the complaint under the Council's Corporate Complaints procedure. The Complaints Manager will advise on this:

<http://www.bathnes.gov.uk/services/your-council-and-democracy/complaints-and-customer-feedback>

Complaints from professionals or partner agencies

Individuals, companies or organisations in a contractual or professional relationship with the Council should raise any concerns they may have with the relevant manager or contract manager within the Council. They will not be considered through this procedure unless they are making the complaint on behalf of a child or young person.

#### Complaints from staff

Where a staff member wishes to complain about issues and decisions that affect them directly and relate to employment or working practice within the Council, they must take this up through their line manager and employment procedures such as the Grievance Policy. <http://intranet/grievance-procedure>

#### Whistleblowing

Members of staff wishing to raise matters of poor administrative practice or service delivery or other matters that are being openly condoned by senior managers, should follow the guidance in the Council's Whistleblowing Policy: <http://intranet/whistleblowing-policy>

### **17. Unreasonable complainant behaviour**

The Council is committed to dealing with all complaints fairly and impartially and to making the complaints procedures as accessible as possible. However, because of the nature or frequency of their contact with the Council, a minority of complainant behave unreasonably and hinder the consideration of their own or other people's complaints.

The Council has an agreed procedure for dealing with this which can be found in the Council's Corporate Complaints Procedure.

<http://intranet/sites/default/files/SiteFiles/Resources/Customer%20Services/311016%20-%20DL%20-%20Customer%20Feedback%20POLICY.pdf>

### **18. Recording and Monitoring**

All complaints are recorded in order to:

- Monitor compliance with procedures
- Monitor the extent to which concerns are being taken seriously
- Inform future service planning
- Identify problem areas so that remedial action can be taken
- Monitor whether complainants are representative of the population

#### Record retention

A record of the complaint will be held by the Complaints and Data Protection Team in line with the Record Retention Policy.

Information about the complaint will be included on the record on Liquid Logic, including a copy of the Stage 1 complaint and response, however, a copy of the reports and correspondence at Stage 2 and Stage 3 will be held separately by the Complaints and Data Protection Team.

Reporting on complaint outcomes, learning and service improvement

An annual report is written by the Complaints Manager. This is presented to the Children and Young People's Overview and Scrutiny Panel and published on the website.

The report contains information about:

- Number of complaints, compliments and comments received.
- Number responded to at each stage and those considered by the LGO.
- Who made the complaint
- Types of complaint made
- Details about advocacy services provided
- Compliance with timescales
- Learning and service improvements
- Review of the effectiveness of the procedure and objectives for the following year.

The complaints manager also provides a quarterly report to the Service Level Agreement meeting and will provide ad hoc reports as required by managers.

Customer Satisfaction Survey

In line with Council policy a customer satisfaction survey is sent to the complainant where the complaint has been upheld. The responses received are reported on and will be used for learning about improved service delivery.