

# Children's Services – STATUTORY COMPLAINTS PROCEDURE

## 1. INTRODUCTION

This procedure is a quick reference tool providing that Statutory Minimum standards for responding to complaints in Children's Social Care Services. If you have any queries on responding to complaints please contact the Children's Rights and Advocacy Team, who will be able to provide you with specific advice.

This procedure should be read in conjunction with the Department for Education and Skills guidance 2006 "Getting the best from complaints" (children).

### 1.1 Qualifying individuals

Service Users and their representatives, known as "Qualifying Individuals", have a statutory right to access the complaints procedure.

Where a service user's representative has support from an advocate (professional or other):

- The Local Authority should ensure consent is obtained from the representative giving permission to the advocate to complain on their behalf.
- The Local Authority should also seek the service user's permission for personal and confidential information to be shared with their representative's advocate.

Complaints from those who are not the service users or their representatives may in some cases also qualify under this process. If there is any doubt, advice should be sought from the Children's Rights and Advocacy Team.

All service users have the right to make representations (comments), which are not complaints. Representations must be responded to in line with stage 1 of this procedure and if service users remain unhappy with the response they must be given the opportunity to complain under this procedure.

Those who 'do not qualify' do have the right to access the County Complaints Procedure. This process differs from the statutory process and details can be found on Surrey County Council Web Pages:

<https://www.surreycc.gov.uk/your-council/complaints-comments-and-compliments/all-other-council-services/how-to-make-a-complaint>

The important point is that under both processes stage 1 complaints must be responded to appropriately (i.e. in line with Data Protection, Disability Access etc) by the team working with the service user.

### 1.2 Exclusions

There are some exclusions to this process, for example: personnel matters, contractual issues, matters before the court for a decision. Generally, this statutory process should be used to respond to complaints about the service received. This

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may include complaints about staff, level of service etc. If there is any doubt, please contact the Children's Rights and Advocacy Team for advice.

### **1.3 Advocacy**

Children in receipt of services wishing to access the complaints procedure have a right to independent advocacy. This should be arranged via Surrey Children's Rights and Advocacy team: Email - [be.heard@surreycc.gov.uk](mailto:be.heard@surreycc.gov.uk), Text – 07805 846386, Phone - 08000 562 132.

### **1.4 Recording complaints and Comments**

From September 2006 the Service is required to record and report on these within the annual report. All complaints and comments must be logged and responded to in line with this procedure.

### **1.5 Responsibility for Responding & Recording**

Complaints may be received at any access point within the Authority. Complaints received by the Contact Centre, Chief Executive and Executive Directors are allocated via the Children's Rights and Advocacy Team. These complaints will usually be sent to the manager of the team providing a service. The team manager will be asked to respond to the complainant directly and to ensure the feedback has been logged. Team Managers are responsible for ensuring that the complaint is responded to within timescale and that the response is comprehensive. Complainants must also be advised of their right to progress the complaint if they remain dissatisfied.

### **1.6 'Getting it sorted'**

The overriding message from Government in regards to complaints is "Get it sorted". This means we must respond to complaints quickly and effectively to avoid matters escalating. Therefore, all staff are responsible for trying to sort matters out as soon as possible. Throughout the procedure the person responding to the complaint should give consideration to other methods of resolving the complaint. This may include mediation, arranging a meeting, taking a specific action etc. Advice on options available can be obtained from the Children's Rights and Advocacy Team.

### **1.7 Deferring decisions**

If the complaint is about a proposed change to a care plan, a placement or a service, the decision may need to be deferred (frozen) until the complaint is considered. However, care should be taken if deferring a decision is likely to have a significant effect upon the mental or physical wellbeing of an individual.

The decision to defer should normally be made through detailed discussion and risk assessment between the Children's Rights and Advocacy Manager (in

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discussion with their manager) and the manager responsible for the service, within the context of the work being undertaken.

### 2. THE NEW PROCEDURE FOR CHILDREN ACT (1989) COMPLAINTS

#### Stage 1 – Local Resolution

Complaints, wherever received within the Authority will normally be sent to the Team Manager providing services. This will not happen if there is a conflict of interest or if the complainant has requested for the matter to be passed/progressed to stage 2 immediately and the appropriate Children's Rights and Advocacy Manager agrees that the matter should be automatically progressed.

If the complaint has not been acknowledged elsewhere in the Authority, the Children's Rights and Advocacy Team will acknowledge and record the complaint as soon as possible. The Team Manager must respond to the complaint, in the most appropriate format and ensure that the CRAT are kept updated on progress and kept updated on progress, and copied into the response.

Children making complaints have a right to independent advocacy and it is the Team Manager's responsibility to ensure advocacy is offered and arranged via the CRAT. Where a child's representative is being supported by an advocate, the Team Manager or the CRAT must ensure that a consent form has been completed and signed by the representative. In addition and when appropriate, the service user's permission must also be obtained for information to be shared with the representative's advocate.

The Team Manager should consider all reasonable options for resolving the complaint.

The **timescale** for responding at stage 1 of the process is **10 WORKING DAYS** from the date the complaint is received by the local authority. This may be extended by another 10 working days if agreed with the complainant and where there is a legitimate delay, for example in arranging advocacy support.

Complainants must be advised of their right to progress the complaint should they remain dissatisfied.

Failure to meet the timescale at Stage 1 can result in automatic progression to Stage 2 of the process if requested by the service user.

#### Stage 2 – Investigation

All stage 2 investigation requests must be immediately sent to the CRAT who will assess these requests and where appropriate progress complaints at stage 2 and manage the statutory process. At the second stage of the process the Children's Rights and Advocacy Manager can use their discretion to decide the most

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appropriate way to resolve/respond to the complaint in agreement with the complainant. These can include, Review by a Peer Manager, Mediation or Independent Investigation. The Children's Rights and Advocacy Manager arranges the appointment of an Independent Investigator and an independent person to investigate the complaint.

Staff are required to cooperate with complaints investigations and mediation meetings and ensure that the Investigator (if appointed) has access to all information they request.

After the mediation meeting a senior manager responsible for the service complained about will formally respond to the complaint setting out the agreements reached during mediation and acknowledge any errors or omissions with appropriate apologies.

If an independent investigation is commissioned, the investigator will produce a written report of their investigation based on the statement of complaint, which is agreed at the outset with the complainant. If an Independent Person has been involved they will produce a brief report where they will indicate if they felt the investigation was fair and thorough and whether they agree with the Investigator's conclusions. The investigation report will include findings for each complaint heading and will also consider the stage 1 response if relevant. The report is sent to the Children's Rights and Advocacy Manager who will arrange for the "Adjudication" to be completed. This is the services' response to the report, stating if the service accepts the findings or not and what action will be taken. The Adjudicator will normally be a senior manager responsible for the service complained about.

The complainant will be offered the opportunity to discuss both the investigation report and the local authority's response at an adjudication meeting chaired by the relevant senior manager.

If a Peer Review is commissioned the review will be overseen by an appointed independent person. The review will be undertaken by a manager who does not sit within the line management of the service being complained about. The review will be a paper review and the manager will provide a report of their findings. The report will be shared with the Children's Rights and Advocacy Manager who will commission the independent person to oversee the review report. The independent person will also provide a report of their findings. Both reports will then be shared with the senior manager for the service being complained about so that they can provide the formal response to the complaint. Copies of both reports are usually sent to the complainant with the formal response.

The report and adjudication will be sent to the complainant. The preferred timescale for responding to a complaint at stage 2 is 25 working days from the date the statement of complaint is signed to the adjudication being sent out. This can be extended to a maximum of 65 working days in certain circumstances.

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Complainants will be advised of their rights to progress their complaint should they remain dissatisfied with the stage 2 outcome and that they must advise the Children's Rights and Advocacy Manager if they wish to do so within 20 working days of receiving the report and adjudication.

### **Stage 3 – Review Panel Hearing**

The stage 3 Review Panel Hearing is managed and organised by the Children's Rights and Advocacy Manager. Panels cannot reinvestigate the complaint but can review the handling of the complaint and adjudication and make recommendations. The panel is made up of three independent panellists. The Investigator, the service adjudicator, and the Children's Rights and Advocacy Manager will also attend the Review Panel Hearing. If an Independent Person was involved, they will usually also attend. Finally, a panel clerk will attend to take notes and a legal advisor will usually also be present for part of the process.

The complainant (and their representative) will also be invited to attend but they are not required to do so. Staff members involved in the complaint will not be required to attend. The panel will hear from the complainant, if they are attending and the service representative, and will ask the investigator questions if necessary.

The panel will submit their recommendations to the Executive Director who will send a formal response to the complainant.

This completes the Statutory Process.

If complainants remain dissatisfied they have the right to refer their complaints to the Local Government and Social Care Ombudsman (LGO). The Children's Rights and Advocacy Team coordinates responses to the Ombudsman.

### **3. CONTACT INFORMATION**

The Children's Rights and Advocacy Team:

Tel: 01483 519095

Email: [childrens.rights@surreycc.gov.uk](mailto:childrens.rights@surreycc.gov.uk)

Children's free phone number: 08000 562 132 (free from mobiles)

Children's text number: 07805 846386

Children's email : [be.heard@surreycc.gov.uk](mailto:be.heard@surreycc.gov.uk)