



**DORSET COUNCIL  
CHILDREN'S SERVICES DIRECTORATE**

**SOCIAL CARE COMPLAINTS POLICY  
AND PROCEDURE FOR CHILDREN**

**COMPLAINTS, COMPLIMENTS AND OTHER REPRESENTATIONS**

**October 2022**

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# 1. INTRODUCTION

- 1.1 People who use Children's Social Care services are encouraged to give feedback on the quality and appropriateness of the services they receive. This feedback can be in the form of compliments, comments, suggestions, queries or complaints. All of these different kinds of representations from service users and carers should be welcomed and encouraged. The Council is committed both to listening to its service users and to using the information received to develop and improve the services it provides or commissions.
- 1.2 It is important that all representations from service users and carers are recorded to ensure that the views expressed by service users can be used to inform the process of service planning and service development. A specific element of this is the recording of compliments and complaints. The Council is legally required to establish and maintain a complaints procedure and it is important that complaints are recorded and dealt with effectively in order to meet the statutory requirements of the complaints procedure.
- 1.3 This guidance is written to assist staff who receive representations from service users and to clarify both statutory and Council requirements and expectations.
- 1.4 This procedure does not relate to non-social care services or to complaints about schools. Further information is available on the Dorset Council website and staff intranet.

## 2. BACKGROUND

- 2.1 The National Health Service and Community Care Act 1990 introduced Directions under the Local Authority Social Services Act 1970 which required Social Services Authorities to establish a formal complaints procedure from 1 April 1991 for considering "*any representation including a complaint to the local authority in relation to the discharge of, or any failure to discharge, any of their Social Services functions*" in respect of a "*qualifying individual*". The Children Act 1989 required Social Services Authorities to establish a formal procedure from 14 October 1991, to consider representations, including complaints, about the services it provides for children. The procedure should cover all representations about the Directorate's actions in meeting its responsibilities to any child in need and is updated to reflect requirements of the Children Act 1989 Representations Procedure (England) Regulations implemented in September 2006.
- 2.2 The procedure also incorporates the recommendation arising from the 1999 "Lost in Care" report following the North Wales childcare inquiry that Social Services Directorates should identify a Children's Complaints Officer to deal with complaints from Looked After Children. This function is carried out by the Policy Manager - Service Development for Children & Families.
- 2.3 Whilst there is no statutory requirement to do so, the Directorate's procedure incorporates *compliments* as well as *complaints* (see Section 17 for more information about compliments).
- 2.4 The Directorate's complaints procedure is part of Dorset Council's corporate framework for responding to comments, both positive and negative, about its services. The expectation is that the majority of complaints received about the Children's and Families services will be dealt with under the Children's Services procedure. Other matters, including complaints about Education services, may however be dealt with more appropriately by the Council's complaints procedure. Complaints against schools are referred to the school in the first instance but are dealt with by the School Complaints Officer, who is also the Inspector for School Improvement.
- 2.5 Service users also have the right to complain to their county councillor or MP, although experience suggests that when these representations are referred to the Directorate they are then best dealt with as any other complaint under the Complaints Procedure. Service users can also complain to the Local Government and Social Care Ombudsman although they are usually expected to use all three stages of the complaints procedure before making a final approach to the Ombudsman.

## 3. POLICY & OBJECTIVES

- 3.1 The legislation recognises that giving people the right to complain, and to make other representations, is particularly important to those who are most frail and vulnerable and for those concerned on their behalf, when services are absent, inappropriate or insensitive. A robust and responsive complaints procedure is a key factor in ensuring that the Directorate is seen to care for its service users and is open to challenge when there is dissatisfaction with its services.
- 3.2 The Directorate is committed to receiving any comments or criticisms about its services so that where things have gone wrong, they are quickly corrected to ensure the best quality of service possible is achieved. The complaints procedure is the method by which service users and carers can express their worries, problems or concerns and be sure they will be listened to, taken seriously, and, if possible, their problems resolved quickly and efficiently.

- 3.3 All staff should be aware of the Complaints Procedure and the process to follow. All first line managers will have a copy of these guidelines and complaints issues may be a regular agenda item at management meetings. Training will also be available for independent investigators appointed to conduct investigations at stage 2 and independent members of the stage 3 review panel. Information on the complaints process, including the 'The Whole Authority Procedure' document, is available on the Dorset Council website and staff intranet.

The procedure has ten key objectives. It must:

1. be clear and easy to use.
  2. ensure that the people who use the service are treated with dignity and respect, are not afraid to make a complaint, and have their concerns taken seriously.
  3. ensure, as far as is possible, even-handedness in the handling of complaints.
  4. ensure that any concerns about the protection of children are referred immediately to the relevant social services team or to the Police.
  5. make sure that as many complaints as possible are resolved swiftly and satisfactorily at the local level.
  6. ensure a fair process and adequate support for everyone involved in the complaint.
  7. ensure that the child or young person receives a full response without delay.
  8. enable any local authority purchasing services in the independent sector, to exercise its continuing duty of care.
  9. secure sensible and effective links with other procedures in local government.
  10. safeguard the child or young person's rights of access to other means of redress, such as the Local Government and Social Care Ombudsman.
- 3.4 To summarise, the aim of the complaints procedure is to demonstrate the capacity of the Directorate to accept criticism or disagreement and to solve problems and is an integral element of the Directorate's continuing commitment to quality assurance and continuous improvement. The procedure aims to help clarify staff roles. The emphasis should be on correcting faults or problems, and learning from experience so that repeat difficulties can be prevented.

## **4. WHAT IS A COMPLAINT?**

- 4.4 A complaint may be generally defined as an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response.
- 4.5 Representations may not always be complaints; they might also be positive remarks or ideas that require a response from the Directorate. Enquiries or comments about the availability, delivery or nature of a service which are not criticisms are likely to constitute representations.
- 4.6 Representations are sought out and welcomed as a measure of satisfaction. Representations that are not complaints are recorded and handled in the first instance locally (Stage 1). The Directorate will respond to the issues raised and set out what action will be taken.
- 4.7 Every effort is made to ensure that children and young people are aware of how they may make representations to the local authority and that they do not have to be complaints. Children in need have the right to independent advocacy where they are making or intending to make representations, including complaints under Section 24 D or 26A or the Children Act 1986.
- 4.8 When the representation is not a complaint, failure to respond to the child or young person's satisfaction will mean that this failure will move to a complaint at Stage 1 of the procedure.

## What May Be Complained About

- 4.9 Section 26(3) of the Children Act, 1989 provides that all functions of the local authority under Part 3 of the Act may form the subject of a complaint. For example, a complaint may arise as a result of many things relating to statutory social services 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 or young person of the application of a local authority policy; and
  - assessment, care management and review.
- 4.10 However, this is not an exhaustive list and the Complaints Manager will seek legal advice as necessary.
- 4.11 In addition, the Regulations provide that the following new functions may be the subject of a complaint:
- Part 4 of the Children Act, 1989, the decision by the local authority to initiate care and supervision orders (section 31); the effect of the care order and the local authority's actions and decisions where a care order is made (section 33); control of parental contact with children in care (section 34); how supervisors perform their duties where a supervision order is in force (section 35);
  - Part 5 of the Children Act, 1989, matters that do not relate to the Court and which are specifically actions of the local authority can be considered, regarding applications for and duties in relation to child assessment orders (section 43); and matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed (section 44).
  - Where social work information or a social work report has gone to Court, the child or young person can make a complaint about the report, for example its quality or accuracy, distinct and separate to the subsequent actions of the Court. If this complaint is upheld, the local authority should advise the child or young person what action it proposes to take with regard to the Court action.
  - With complaints about regulated services under the Care Standards Act 2000 and where services are delivered on the local authority's behalf or through an internal service that is regulated, the local authority will need to satisfy itself that the complaint can be considered under this procedure.

## Adoption services

- 4.12 The Regulations also provide that the following adoption-related functions may also be the subject of a complaint:
- Provision of adoption support services (as prescribed in regulation 3 of the Adoption Support Services Regulations 2005) insofar as these enable adoptive children to discuss matters relating to adoption;
  - assessments and related decisions for adoption support services as prescribed in regulation 3 of the Adoption Support Services Regulations 2005 (Parts 4 and 5 of the Adoption Support Services Regulations 2005);
  - placing children for adoption, including parental responsibility and contact issues (sections 18 to 29 of the 2002 Act);
  - removal of children who are or may be placed by adoption agencies (sections 30-35 of the 2002 Act);

- removal of children in non-agency cases (sections 36-40 of the 2002 Act);
- duties on receipt of a notice of intention to adopt (section 44 of the 2002 Act);
- duties set out in regulations in respect of:
  - a local authority considering adoption for a child (part 3 of Adoption Agency Regulations 2005);
  - a proposed placement of a child with prospective adopters (part 5 of Adoption Agency Regulations 2005);
  - placement and reviews (part 6 of Adoption Agency Regulations 2005);
  - records (part 7 of Adoption Agency Regulations 2005);
  - contact (part 8 of Adoption Agency Regulations 2005); and
- parental responsibility prior to adoption abroad (part 3 of Adoptions with a Foreign Element Regulations 2005).

## What is Exempt from the Complaints Procedure

4.13 The complaints procedure does not apply to:

- grievance procedures for staff such as conditions of service, management, and support;
- disciplinary procedures for staff arising from their actions;
- complaints about the decision to place a child on the child protection register or decisions taken during Child Protection Conferences – there is a separate procedure – please see the Dorset Council website and staff intranet for details
- the Guardian ad Litem Service – there is a separate complaints procedure for this service.
- complaints which are received by the Registration & Inspection Unit about standards of care in residential homes unless the complaint is about an individual for whom the Directorate is purchasing services;
- Care homes are regulated by the Commission for Social Care Inspection (CSCI), which is responsible for monitoring the standards of most private, voluntary and local council care services.
- **Complaints to the Commission for Social Care Inspection**  
You can complain to the Commission for Social Care Inspection (CSCI) if you're not satisfied with the result of your formal complaint to your care home. You can also complain directly to the CSCI from the start.

You don't have to tell your care home that you have complained to the CSCI, but a full investigation might be difficult without them knowing. The CSCI will write to you and let you know what they will do about your complaint.

- Complaints relating wholly to Section 7 reports as the Local Government and Social Care Ombudsman consider this to be outside of their remit for investigation. However, they may consider concerns relating to the Local Authority's involvement in a Section 7 report if it informs part of a wider complaint.

4.14 Notwithstanding these exclusions, any complaint which involves social care services provided by the Directorate, or on behalf of the Directorate, should be considered within the procedures described in this guidance. Non-social care services should be considered under the Whole Authority Complaints procedure. If you are unsure, please consult the Complaints Manager.

## 5. WHO CAN COMPLAIN

5.1 Complaints must be made by or on behalf of a 'qualifying individual'. A person is a 'qualifying individual' if:

- the Directorate has a power or a duty to provide, or to secure the provision of a service for him/her;
- and his/her need or possible need for such a service has (by whatever means) come to the attention of the Directorate.

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

- any child or young person (or a parent of his or someone who has parental responsibility for him) who is being looked after by the local authority or is not looked after by them but is in need;
- any local authority foster carer (including those caring for children placed through independent fostering agencies);
- children leaving care;
- Special Guardians;
- a child or young person (or parent of his) to whom a Special Guardian order is in force;
- any person who has applied for an assessment under section 14F(3) or (4);
- any child or young person who may be adopted, their parents and guardians;
- persons wishing to adopt a child;
- any other person whom arrangements for the provision of adoption services extend;
- adopted persons, their parents, natural parents and former guardians; and
- such other person as the local authority consider has sufficient interest in the child or young person's welfare to warrant his representations being considered by them.

## 6. CHILDREN'S COMPLAINTS

6.1 Complaints by parents, carers and significant persons are dealt with (section 6.1 and 6.2). Complaints made by eligible children themselves are additionally managed and monitored by the Children's Complaints Officer, in order to ensure additional support and scrutiny of issues raised by children and young people (section 6.2 to 6.6). Complaints which fall within the specific requirements of the Children Act 1989, 'Children Act Complaints', include representations about:

- (a) the Directorate's actions in meeting its responsibilities to any child in need as defined in Part 3 of the Children Act 1989;
- (b) decisions in respect of exemptions to the 'usual fostering limit';
- (c) Directorate actions which affect groups of children in need;
- (d) the management or handling of a child's case by the Directorate;
- (e) decisions which affect the assessment of whether a child or group of children is in need;
- (f) complaints by parents about child protection conferences in terms of the process or related issues (but not about the decision to place a child on the Child Protection Register, which can only be challenged by judicial review).

6.2 Complaints should be dealt with under the Children Act 1989 if the person who complains is:

- a child who is looked after by the Council or who is in need or who claims to be in need
- a parent or other person with parental responsibility;
- a local authority foster carer;
- any other person who is significant to the child or who can make a positive contribution



to planning for the child's future.

- 6.3 'Children Act' complaints which go to Stage 2 (formal investigation and report) require the appointment of an independent person who is "neither a member nor an officer of the authority" to consider the complaint alongside the Directorate's own independent investigator and to be involved in all subsequent considerations of the complaint.
- 6.4 There is a designated Children's Complaints Officer who is a Policy Manager for Families and Young People.
- 6.5 Complaints or representations made by a child or young person in the following categories will be dealt with by the Children's Complaints Officer in conjunction with the Complaints Manager:
- all children and young people the CAF9 including those looked after by the Authority irrespective of their type of placement
  - young people who are eligible for post care services
- 6.6 Whilst special arrangements are in place to respond to children looked after by the authority who wish to make a representation or complaint, the Children's Complaints Officer will ensure that the administration of children's complaints is incorporated into the arrangements set up by the designated Complaints Manager to record and monitor complaints. This will enable the Directorate to have an accurate overview of all complaints and any action taken as a result.

### **Anonymous complaints**

- 6.15 Complaints received anonymously should always be recorded and referred to the Complaints Manager.

### **Complaints relating to more than one local authority**

- 6.16 Where a complaint relates to two or more local authorities, the complaint should be considered by the authority which is looking after the child or in any other case by the authority within whose area the child is ordinarily resident. Under Section 27 of the Children Act, 1989, there is a duty to cooperate. Good practice would suggest the local authority responding to the complaint should ensure good communication with the other local authority / authorities.

## **7. ROLE OF THE COMPLAINTS MANAGER**

- 7.1 The Directorate is required to appoint a Complaints Manager. The Complaints Manager has overall responsibility for the administration of the complaints procedure. Every authority must ensure that the role has sufficient clarity of purpose and authority to enable complaints to be dealt with effectively and speedily.
- 7.2 Complaints and compliments are administered as part of the function of the Assurance Team. The Designated Complaints Manager is also the Quality Assurance & Complaints Manager.
- 7.3 The Regulations require local authorities to designate an officer, known as a Complaints Manager, to undertake certain functions. The role of Complaints Manager should meet the existing role of Designated Complaints Officer. The Complaints Manager reports to the Assurance Manager. The Complaints Manager is supported by the Quality Assurance & Complaints Administrator in the day-to-day administration of the procedure.
- 7.4 In addition, the Directorate has a designated Children's Complaints Officer (as described in

2.2 above) who may become directly involved with the child or young person looked after by the authority who is making a complaint or will ensure that the complaint is handled appropriately.

7.5 The responsibilities of the Complaints Manager are:

- managing, developing, resourcing and administering the complaints procedure;
- overseeing the receipt and investigation of complaints that arise from problems that could not be resolved initially;
- liaising with the Independent Reviewing Officer where appropriate to identify options for resolution;
- appointing Investigating Officers, Review Panellists and Independent Persons;
- ensuring that there are no conflicts of interest at any stage between parties involved in delivering the procedure;
- co-operating with such other persons or bodies as may be necessary in order to investigate or resolve complaints;
- promoting local resolution;
- monitoring the progress of the investigation and ensuring its smooth running;
- making recommendations to the local authority on any other action to take following an investigation;
- working closely with the Panel Chair on the organisation of Stage 3 Review Panels;
- monitoring and reporting on time scales;
- maintaining a written record of complaints made, the procedure followed and the outcome; and
- compiling the annual report;
- providing guidance, advice and support to staff on management of complaints;
- supporting staff involved in all stages of the complaints procedure;
- commissioning appropriate training;
- overseeing the arrangements for publicity;
- evaluating and reporting on the numbers, types, outcomes and trends of complaints to inform practice, development and service planning;
- maintaining a pool of people with skills and training needed to conduct investigations; and
- ensuring that commitments given in responses (including adjudications) are implemented.

7.6 In conjunction with the Children's Complaints Officer

- providing a sensitive, customer-focused service for representations and complaints, appropriate to the needs of children and young people;
- providing help and advice to children and young people and others who may wish to make a complaint so that they understand the options available for resolution both within the complaints procedure or alternative routes of remedy and redress;
- ensuring that advocacy services are explained, offered and provided when required;
- ensuring the complainant is kept informed at all stages;
- offering advice on the response of the authority; and
- providing practical support to complainants.

## **8. THE PROCEDURE – OVERVIEW**

8.1 Essentially there are three stages in the Complaints Procedure, as set out below:

### **Stage I – Local Resolution**

8.2 The Initial attempt to resolve matters must be made within 10 working days of receipt, of the complaint unless an extension has been agreed with the complainant or an Advocate is

being engaged. If agreement is reached to extend this a maximum of an additional 10 working days is allowed.

## **Stage 2 – Investigation Stage**

- 8.3 The complainant has 20 working days to request a Stage 2 Investigation from the date of the Stage 1 response. The details of the complaint and the desired outcome should be agreed with the complainant. The Complaints Manager will appoint an appropriate independent investigator. The investigator will then produce a report and the Adjudication Officer (Head of Service) should respond to this report within 25 working days from the date on which the written complaint was received. An extension may be agreed with the complainant but the process should be completed within a maximum of 65 working days.

## **Stage 3 – Review Panel**

- 8.4 The complainant has 20 working days to request a Review Panel from the date of the Stage 2 response and the Panel must be convened within 30 working days of the request. The Panel consists of 3 people independent of the local authority who will meet to consider whether the complaint was adequately dealt with at Stage 2. The Panel must produce a written report including recommendations to the Director within 5 working days of the Panel. The Director has a further 15 working days in which to respond to the complainant on the Panel's recommendations

# **9. DETAILED PROCEDURE: STAGE 1**

- 9.1 Complaints may be received by various means:

- verbally to a member of staff;
- in writing, by telephone or by e-mail to a member of staff at the local office or the Directorate Complaints Manager.

- 9.2 When a complaint is received by the local manager, an acknowledgement in writing should be sent within 3 working days

- 9.3 The Complainant must lodge the complaint, within 12 months of the ground for complaint. The complaint will be recorded on the complaints database. Complaints which are made directly to the complaints office will be acknowledged in writing giving brief details of the complaint and enclosing a copy of the information leaflet. The complaint is then e-mailed to the team/unit manager for him/her to use in investigating the complaint.

- 9.4 Occasionally telephone calls or letters of complaint are received by the Director or a senior manager. These should be forwarded to the Complaints Manager who will pass the complaint through to the first line manager for investigation. This is to ensure that senior managers are not involved at an early stage when their response may be required later at Stage 2 or Stage 3 of the procedure. There is a separate protocol for dealing with letters from Members of Parliament. Where an MP is advocating on behalf of their constituent to form a complaint the MP should receive a response from the Head of Service. This may be added to the complaint file.

*\*Where a Member of Parliament is advocating on behalf of their constituent to form a complaint, it should be forwarded to the Complaints Team to check whether a formal investigation is already underway. The Complaints Team will write to the MP to advise them of the current position of the investigation and the date by which the complainant will receive a response. Where a formal complaint investigation is not already underway, the Complaints Team will assess the concerns raised and follow the process, writing to both the MP and complainant. A response will be sent to the complainant, who can then share it with the MP should they choose to.*

- 9.4 If the complainant does not want to pursue the complaint, the MP letter may be recorded as a representation.
- 9.5 Emphasis throughout the complaint process should be on correcting faults or sorting out problems, not finding fault or apportioning blame. Matters solved at this stage are to the advantage of all concerned and an investment of time at the initial stage may save significant time later in the process. A defensive stance should be avoided, and an apology should be provided if there has been any action which fails to meet required standards.
- 9.6 Staff should consider whether the service user might benefit from the involvement of an independent advocate to help them formulate and progress their complaint. For example, the local Citizens Advice Bureau may be able to help, or Dorset Advocacy could be involved for someone with a learning disability and Dorset Mental Health for mental health service users and carers.
- 9.7 The details of the complaint must be acknowledged and a copy of the information leaflet enclosed. Complaints must always be investigated by the team/unit manager of the staff or service involved. Complaints that involve the direct action of team or unit managers will be referred to their manager. i.e. appropriate Service Manager.
- 9.8 The first stage investigation may require the manager to visit or arrange a telephone call with the complainant and will always require the manager to interview staff referred to in the complaint and to examine the case records and/or any other recording made of the incident or matter under consideration. The manager should make a brief record of the substance of their investigation as this may inform and assist any subsequent investigation(s).
- 9.9 Managers' responses to formal complaints should always be in writing, within 10 days of the complaint with guidance on recourse if still unhappy.
- (**note:** if the manager is unable to respond within 10 working days he/she should inform the Complaints Manager. The Complaints manager should agree with the complainant to extend the timescale to maximum of 20 working days) If a complaint runs over the 20 day time limit then the complaint can automatically progress to Stage 2.
- 9.11 Complaints, when finalised, should prompt learnings for the Directorate to monitor the nature and the resolution of complaints and ensures that action is taken where necessary to improve the quality of service. The information collated on the complaints form, is included in an annual report which is presented to Committee. Records are also used to inform the performance indicator returns that the Council is required to make to the Department for Children, Schools and Families (formerly DfES) and other Central Government Offices.
- 9.12 Learning information should be supplied whether the complaint is made by telephone, in person, or in writing or whether it originated locally or through the Complaints Manager. **The Complaints Manager is required to maintain a record of all complaints, and it is therefore essential that a copy of the correspondence and the original complaints management form is sent to the Complaints Manager, preferably electronically, to ensure monitoring is as up to date as possible.**
- 9.13 In addition to the essential recording, name, address, etc, to record the action or outcome expected by the complainant. This is the means of clarifying the complaint, identifying the problem and noting what remedy the service user or complainant wants. Wherever possible, this should equate with the service user's expected outcome, the emphasis being to solve problems.

## 10. DETAILED PROCEDURE: STAGE 2

- 10.1 If a complainant is dissatisfied with the outcome at Stage 1, he or she should write to the Complaints Manager stating that they wish to progress their complaint to Stage 2. The

Complaints Manager will then inform the relevant Head of Service that a request has been made for an independent investigation.

- 10.2 The investigation will be undertaken by someone independent of the Directorate. The Directorate has access to a 'Pool' of Independent Investigators shared with other authorities. Separate guidance is available to Independent Investigators in relation to their role within the procedure.
- 10.3 The Complaints Manager will write to the complainant and inform the team manager that an investigation has been arranged, and who the investigating officer is.
- 10.4 In accordance with the Children Act Representations Procedure (England) Regulations 2006 (Regulation 17(2)), the Complaints Manager must appoint an Independent Person (IP) as well as an Investigating Officer (IO). The role of this Independent Person, who will be from outside the Directorate, will be to form an independent view of the complaint. The person appointed will take part in all discussions about the complaint and will have access to the relevant case records and will interview all relevant persons, alongside the Directorate's own independent investigator. Where possible the gender of the independent person should be different from that of the investigating officer. The person appointed should not be an employee of the local authority, or a spouse of an employee or member of the authority. Former local authority staff should be considered eligible as long as at least three years have elapsed since they were employed by the local authority.
- 10.5 The investigating Officer will draft a report to be circulated to the complainant, without conclusions or recommendations, for comment on factual accuracies. The Complaints Manager and Investigating Officer will liaise in relation to any amendments required and a final report will be produced. The Complaints Manager will send the final report to the adjudicating officer (Head of Children's and Families Services) for a formal response.
- 10.6 The formal response to the final report should be made by the relevant adjudicating officer within 25 Working days of the date the complaint was received, and a copy sent to the Complaints Manager. Where it is not possible to complete the investigation within 25 working days, Stage 2 may be extended to a maximum of 65 working days. All extensions should be agreed between the complainant and the Complaints Manager. The important thing is to maintain dialogue with the complainant and where possible reach a mutual agreement as to what is reasonable where a response in 25 working days is not feasible.
- 10.7 The concluding paragraph in every case should be as follows:

**“I hope that the above explanations help you to appreciate why I have arrived at my conclusion. However, if you are not satisfied and wish to have the matter reviewed by an Independent Panel, please write within 20 working days of this to The Complaints Manager, Children's Services, Dorset Council, County Hall, Dorchester, DT1 1XJ.”**

## **11. DETAILED PROCEDURE: STAGE 3**

- 11.1 If the complainant is dissatisfied with the stage 2 response they can request further consideration of the complaint by a Review Panel. Further consideration of the complaint can include, in a limited number of cases, early referral to the Local Government and Social Care Ombudsman, or Alternative Dispute Resolution (ADR) see section 15 Otherwise, the complainant retains the right to proceed to a Review Panel.
- 11.2 The complainant has 20 working days to request a Review Panel from the date of receiving the Stage 2 response, the Panel must be convened within 30 working days of the request.

- 11.3 The purpose of the Review Panel is to consider whether the complaint was adequately dealt with at Stage 2. The Panel should do this by listening to all parties and obtaining any further information. They should not reinvestigate the complaint nor consider any substantively new complaints.
- 11.4 The Panel consists of three people independent of the local authority who will meet to consider whether the complaint was adequately dealt with at Stage 2. No member of the panel may be an officer, nor the spouse or civil partner of an officer of the Council.
- 11.5 The complainant has the right to attend the Panel and may be accompanied by another person, although this person should not be a barrister or solicitor acting in a professional capacity. The adjudicating Officer (Head of Children's and Families Services) should represent the authority and the Investigating Officer should also be invited. However, the Chair should make the final decision as to who should be in attendance.
- 11.6 The Complaints Manager should confer with the Chair, following the Chair's appointment, regarding arrangements for the Panel. Panel papers will be sent to all attendees no later than 10 working days before the date of the Panel.
- 11.7 The Panel must produce a written report including recommendations to the Director within 5 working days of the Panel. The Director has a further 15 working days in which to respond to the complainant on the Panel's recommendations.

## **12. PUBLICITY**

### **Complaints – Tell us your views**

- 12.1 The complaints leaflet describes how to make a complaint and explains the three stages of the complaints procedure. It must be:
- handed or posted to every service user who indicates that they may wish to make a complaint;
  - displayed in Directorate leaflet racks, in local offices and all residential and day care establishments;
  - discussed with and supplied to all new members of staff as part of their induction training;
- 12.2 This information is available in large print for people who are blind or partially sighted.

## **13. INFORMATION AND TRAINING**

- 13.1 As part of their induction, all new staff to the Directorate should be informed of the Complaints Procedure by their immediate supervisor, and at least discuss and receive a copy of the leaflets so that they have a reasonable confidence and knowledge to be able to respond appropriately to any comments they receive from service users. All staff should have a copy of these guidelines which may be accessed through the Dorset Council website and staff intranet.
- 13.2 Managers with operational responsibility for services should promote regular discussion about the complaints procedure in supervision and team/staff meetings to ensure that all staff have a working knowledge of at least the first stage procedures. Such discussions should include client reception officers, receptionists and other administrative staff. It is the initial response of front-line staff that will be crucial to the successful operation of this complaints procedure.

## 14. RECORDING AND MONITORING SYSTEMS

### Recording

- 14.1 The overall purpose of recording is to enable:
- service users to see that their concerns and suggestions are being dealt with and that a thorough and fair investigation has taken place;
  - the organisation to demonstrate that complaints are taken seriously and how they are resolved; and
  - feedback from complaints to lead to improvement in service planning and delivery.
- 14.2 The complaints procedure will adhere to the requirements of the Data Protection Act, 1998 and the Freedom of Information Act, 2000. Particular attention is drawn to the need to ensure that any personal information obtained in relation to a complaint is only used for that purpose.
- 14.3 Records of complaints received including any investigation reports, Panel reports and letters of response from the local authority should be placed on the relevant service user's file, unless there are specific reasons not to do so (for example if the reports would cause distress to the service user). The complaints investigation report and all other relevant papers should also be held by the Complaints Manager in a separate complaints file.

### Confidential complaints

- 14.4 A frequent worry of children and young people is that details of the complaint might be given to other people who do not need to know about it. Children see privacy and confidentiality as vital and must be able to make 'confidential complaints.' Children may be concerned about 'come-backs' on themselves e.g. in foster and residential care settings. Therefore, details of a child's personal complaint should not be put into a complaints book that others can read.
- 14.5 Particular attention is drawn to the need to ensure that personal information obtained in relation to a complaint is used only for that purpose. Dorset Council have a mandatory training module regarding customer confidentiality.

### Making complaints information accessible

- 14.6 For children and young people with difficulty reading, writing or speaking English, the local authority should identify a suitable method of communication so that these children can express and follow progress on their complaint in full; this might involve the provision of information (including responses to complaints) in large print, translation or in other formats. In the case of complainants with special needs or within specific community groups, the local authority should meet the complainant to explain any reports in person. This can also be arranged to take place virtually.
- 14.7 For people with special needs, such as learning disabilities, sensory or physical impairment or with mental health problems, the Complaints Manager should liaise closely with the authority's specialist teams and relevant voluntary bodies to ensure that the complainant is able to express their complaint in full. The child or young person should have confidence that the authority can provide as thorough consideration as for any other service user.

Children and Young People looked after will receive publicity about the advocacy services through the Children's Rights Service. The statutory review to process includes a requirement to ensure children looked after are aware of the complaints procedure.

## 15. PROBLEM SOLVING AND RESOLUTION

## **'Freezing' of operational decisions**

- 15.1 In some circumstances, it may be necessary for an operational decision to be "frozen" whilst a complaint is received and investigated. For example, in the case of a user or carer who wishes to challenge or change a decision which could involve a move to a different location. In such cases, it may be argued that if the decision were to go ahead it would invalidate the whole purpose of the complaints process. Such cases will need to be treated individually as and when they arise. The decision to postpone or stop an operational decision may only be made by the Complaints Manager after consultation with the appropriate senior manager (i.e. the Head of Children's and Families Service).

## **Resolving the issue**

- 15.2 Solving the problems that generate complaints is at the forefront of the Directorate's approach to responding to children and young people. Involving people and agencies in the community who provide independent advice can assist problem solving and may prevent dissatisfaction developing into complaints.
- 15.3 Staff should consider when an unresolved problem becomes a complaint. It is important to ensure that attempts at problem solving are not to be used to divert an eligible person from making a complaint under the statutory procedure.
- 15.4 Attempts at resolution should not end once a complaint has been made. In these cases, there should be continued efforts to resolve the dissatisfaction of children service users so that the matter complained about is resolved during consideration of the complaint.
- 15.5 There are a number of methods of resolution that do not require a full investigation that can be applied, including:
- the provision of an apology or explanation;
  - conciliation and mediation;
  - a reassessment of the children or young person's needs;
  - practical action specific to the particular complainant;
  - a review of practice; and,
  - an assurance that the local authority will monitor the effectiveness of its remedy.

## **Alternative Dispute Resolution**

- 15.6 Alternative Disputes Resolution may be considered for example, mediation. Mediation is an intervention whereby a third party helps the parties to reach a new, common understanding. It gives space to resolve issues, preserve on-going relationships and time to defuse or calm heightened situations.

The key to effective mediation is to:

- offer it as early as possible before positions become entrenched;
- promote an understanding of the benefits of mediation and conciliation among staff who may find themselves the subject of complaint; and
- be clear that this is a confidential process.

## **Early Referral To The Local Government and Social Care Ombudsman**

- 15.7 Where the presenting facts indicate that reasonable, appropriate consideration of the complaint has been undertaken at Stage 2 and that further consideration by the Review Panel would not produce a demonstrably different outcome, the Complaints Manager should discuss the possibility of Early Referral to the Local Government and Social Care Ombudsman with the complainant. The authority can only consider this option once Stage 2 has been concluded and the complainant has received the authority's final position on the complaints.



- 15.8 There are a number of important safeguards that should be in place before proceeding with this option. Stage 2 should have delivered:
- a very robust report;
  - a complete adjudication;
  - an outcome where all complaints have been upheld (or all significant complaints relating to service delivery in respect of the qualifying individual);
  - and:
  - the local authority is already providing a clear action plan for delivery; and/or
  - the local authority agrees to meet the majority or all of the desired outcomes presented by the complainant regarding social services functions.
- 15.9 Where this is the case, and the complainant agrees, the Complaints Manager can then approach the Local Government and Social Care Ombudsman and ask him to consider the complaint directly, without first going through a Review Panel.
- 15.10 It is important to note that the Ombudsman has the power to investigate complaints made by members of the public in writing. Therefore, the local authority and the complainant should agree a written statement of the complaint for release, by the authority, to the Ombudsman.
- 15.11 The Ombudsman will then apply a test of reasonableness to this decision. If the Ombudsman concludes that the Early Referral was incorrect, he may select from a range of responses. This may include proposing that the complaint is considered by the local authority at a Stage 3 Review Panel in the normal manner.
- 15.12 Early Referral will also not restrict the Ombudsman from later consideration of the complaint if he so chooses.

### **Inappropriate, unreasonable, or vexatious complaints**

- 15.13 Whilst small in number, such complainants may demand an excessive amount of staff time, in dealing with matters which the complaints procedure cannot resolve. The Council has therefore agreed a protocol whereby such complainants may be excluded from the complaints procedure. An initial meeting of those concerned is required before a proposal is made to exclude someone from the complaints procedure. Such a decision is a very serious matter and it must therefore be made at a senior level by the Director, or his nominated deputy, on the advice of the Head of Children's & Families Services.

### **Financial redress**

- 15.14 Under Section 92 of the Local Government Act 2000, local authorities are empowered to remedy injustice arising from maladministration. Remedies should include, but are not restricted to, financial redress.
- 15.15 When a complainant makes clear their wish to make a financial claim against the Directorate, the matter should be passed to Legal Services and the Corporate Resources Audit and Insurance Risk Management section for advice. There are situations when it may be appropriate to offer complainants some financial redress, for example, for costs they may have incurred in pursuing their complaint. If, however, there is any question of offering a compensation payment for a poor quality of service, then the matter should be cleared with Legal Services, to ensure that there is no technical acceptance of liability, which might render the Council or its insurers to a greater liability than is appropriate to the particular circumstances. The Complaints Manager should be copied into any correspondence in this regard.

## **16. RELATIONSHIPS WITH OTHER PROCEDURES**

## **Working with Other Procedures**

- 16.1 Dorset Council has other procedures which have a significant bearing on the complaints procedures, for example:
- protection of vulnerable adults
  - court proceedings,
  - grievance procedures and
  - disciplinary procedures.
- 16.2 It is important that the relationships between procedures are clear and that their content is consistent. Procedures may also need to link within the National Health Service (NHS) and other agencies contributing to services. Other agencies who may be involved in care services include, housing authorities, voluntary and private domiciliary organisations, the Probation Service and the Police.
- 16.3 The Complaints Manager will provide advice to staff until any concurrent investigations are resolved. In the event of concurrent investigation, the Complaints Manager will liaise to ensure the other investigation is not prejudiced.
- 16.4 A potential area of confusion can arise around boundaries between the local authority's responsibilities and those of other bodies delivering services on behalf of the authority. This can happen, for example, where the local authority provides domiciliary care through a private agency, and the service user wishes to complain about aspects of this service.
- 16.5 Boundary issues can occur among:
- children's homes;
  - children's day care providers;
  - Domiciliary Care Services;
  - contracted agencies and multi-agency services;
  - multi-agency Health Service packages; and
  - single or joint assessments
- 16.6 It is important that the authority is alert to cross-boundary issues and that the Complaints Manager has protocols in place for the successful handling of these complaints. Partner agencies should have appropriate procedures of their own in place for responding to complaints in the first instance.

## **Complaints made to a local authority about an NHS Body**

- 16.7 Services are increasingly provided on the basis of joint arrangements with NHS Primary Care Trusts and other agencies. The NHS has its own complaints procedure and there are specific requirements with which each NHS organisation must comply. However, the procedures are broadly compatible with our own, and there are occasions when it is appropriate to provide complainants with a joint response to their complaints. This requires a decision about which agency will take the lead in responding to the complaint and it will be important to ensure that the complainant retains their rights to progress their complaint through the further stages of one or both agency's procedures (on the matters which apply to each respective agency).

## **Complaints involving regulated services**

- 16.8 With regard to those services that are regulated (including local authority functions) specific complaints procedures are required under separate regulations and National Minimum Standards under the Care Standards Act 2000. They are therefore distinct from the complaints procedures for local authorities that are outlined in this guidance. Understandably, confusion may sometimes exist about which complaints procedure is

appropriate for specific sets of circumstances.

16.9 Complaints are likely to arise from the following issues:

- commissioning;
- placement arrangements;
- placement monitoring;
- personal needs reassessments;
- funding;
- contractual arrangements;
- service agreements;
- service quality; and
- care regime matters not covered by regulations and National Minimum Standards.

16.10 If the Complaints Manager receives such a complaint, he will need to consider whether it is most appropriately dealt with by any complaints process that is operated within the relevant regulated service or setting or whether it is a matter that relates more directly to the exercise of the local authority's Children Act 1989 functions, covered by this procedure. Where the local authority is responsible for the original assessment of need that led to a placement and associated funding, then the complainant will (in most instances) have recourse to this procedure. However, access to this complaints procedure does not apply to people with private self-funding arrangements.

16.11 The complainant should be able to make a single complaint to the provider or the local authority and have this considered by the relevant parties as necessary. The Complaints Manager should therefore ensure good communication with all other parties and organisations should discuss the details of the complaint to ensure a seamless response.

16.12 It is possible for someone to have two complaints ongoing at the same time. One to a residential placement, for example, about how it meets the regulations and/or Standards, and one to the local authority about how it has fulfilled its function in relation to the provision of services to meet the needs of the child or young person.

16.13 The local authority has responsibilities in terms of fulfilling its children's social services functions, and the regulator has the responsibility for ensuring that regulated providers (e.g. care homes) meet the appropriate Regulations and National Minimum Standards.

16.14 When local authorities receive a complaint that is about services provided under the Children's Homes Regulations, 2001, they should refer the relevant parts of the complaint to the registered provider within 5 working days. The local authority should also inform the child or young person of this. Details of the relevant parts of the complaint should also be sent to the local authority's care management team and the contract monitoring team. Any issues of safeguarding and potential vulnerability of the child should be confirmed by the Complaints Manager with the child or young person before releasing the complaint to the relevant care service provider.

16.15 Where the complaint consists of elements relating to both social services functions and services provided under the Children's Homes Regulations, 2001 the local authority should co-operate with the provider to ensure that the complainant receives one response dealing with all aspects of the complaint. The local authority should, within 10 working days, send details of the complaint to the registered provider and determine which parts of the complaint relate to local authority social services and which to services provided by the care provider. It should also advise the complainant which parts of the complaint the local authority is considering.

16.16 If the child or young person considers that he has suffered an injustice as a result of any significant delay or failure by the authority to refer his complaint to the registered person he is entitled to raise concerns to the local authority. The local authority should then deal with this matter under the appropriate procedure.

- 16.17 Boundary issues also arise with regard to other regulated services, as listed above. The Complaints Manager should apply the above guidance in a similar manner with regard to these services as well (see section 7.4 on cross-boundary issues).

### **The role of the regulator**

- 16.18 The Care Standards Act 2000 and the Health & Social Care (Community Health & Standards) Act 2003 define the role of the regulator in social care (currently the Commission for Social Care Inspection). The regulator's role is to ensure compliance with the Regulations and associated National Minimum Standards.
- 16.19 Complaints Managers should also establish good communication with the regulator to ensure clarity in handling complaints involving regulated care services. Assumptions should not be made that a matter of complaint is the responsibility of one agency or another without agreeing the respective lines of accountability.
- 16.20 The regulator is not a complaints agency and has no statutory duties or powers for the investigation of complaints about either care services or local authority social services. It can only consider matters relating to the provider's compliance with regulations and National Minimum Standards. It should also not be seen as a mediator between care service providers and those commissioning or using a service.
- 16.21 Where the regulator receives information indicating a concern, complaint or allegation about a care service, it undertakes an assessment of that information and the accumulated evidence about the care service to determine the nature of its response. In the case of concerns and complaints, the regulator normally refers the matter to the care service provider and/or commissioning agency (where applicable). This highlights the importance of complaints procedures for both care services and local authorities.
- 16.22 However, in certain circumstances the regulator should undertake direct enquiries using its powers of inspection. This will most commonly be where there has been a breach of regulations indicating the need for the regulator to issue recommendations and requirements, or to take other enforcement action.

### **Building a seamless service with the local authority's other complaints procedures**

- 16.23 Where a complainant has other related complaints that do not fall within this statutory procedure, e.g. one being considered under the Whole Authority Complaints Procedure, consideration will be given to the advantages in accepting these into a single investigation.
- 16.24 If this is not possible, then consideration will be given to offering a complete single response where possible e.g. where a complaint involves social care and non-social care services within the Directorate.
- 16.25 The Complaints Team will liaise with other officers to ensure that the complainant is kept informed and wherever possible gets a single, clear reply that covers all aspects. Wherever possible, the shorter of the timescales should be met to ensure that the complainant is not confused.

### **Child protection and child protection conferences**

- 16.26 Where consideration of a complaint leads to concerns about the welfare of children, these should be referred immediately to local authority children's social care or the Police. The handling of any associated complaint can be suspended if necessary.
- 16.27 Where enquiries have been conducted under Section 47 of the Children Act, 1989, a Child Protection conference may be held. This brings together family members, the child (where

appropriate), and those professionals most involved with the child and family to consider information about the child's developmental needs (i.e. health and development) and decide what future action is required to safeguard and promote the welfare of the child.

## **Court orders**

- 16.28 The statutory complaints procedure is not an appeals procedure. People wishing to appeal against Court orders should approach the Court. However, dissatisfaction about the management or handling of a child's case, even where related to a Court order, may be appropriately considered by the complaints procedure, e.g. conduct of social work staff involved in Court procedures. The Complaints Manager will identify whether these circumstances might be considered under this procedure. The complainant should be informed that the complaints procedure cannot overturn a Court decision.
- 16.29 The Complaints Team will need to consider whether any possible complaint relating to records used in Court may also constitute a challenge to accuracy of the records it holds under the Data Protection Act.

## **17. COMPLIMENTS**

- 17.1 It is important to set these perceptions alongside complaints so as to provide a more balanced and informed view of the strengths and weaknesses in our services.
- 17.2 For the purposes of these procedures a compliment is a letter of appreciation, which has been sent directly to the staff concerned, to their manager(s), or to County Hall, usually addressed to the Director. Wherever they are received, it is important to record the compliment and the particular aspect of the service which the user appreciated.
- 17.3 It is the responsibility of the first line manager to ensure that the positive sentiments are feedback to the staff concerned.
- 17.4 Line managers are expected to take responsibility for ensuring that staff who have been the subject of a compliment are properly acknowledged and congratulated.
- 17.5 Complaints handling staff will maintain a central computerised record of all compliments and will include this information in the quarterly reports provided for senior managers of all complaints and compliments received.

## Dorset Council Complaints Team Management Process for Children’s Social Care Complaints only

This email template has been developed to assist and direct managers to investigate and respond to formal complaints.

*Please find attached a complaint from ... that requires investigation and response by .... It is my understanding that you may be best placed to do this, but if you are named or heavily involved in these issues, consideration should be given to escalating the responses sign off to another manager to ensure independence. I also attach a topped and tailed draft which I hope you will find helpful and labour saving.*

*It is important that we gather any learnings and actions arising from this complaint so as well as kindly completing the draft for me, I would ask you to give some thought to what we can take away from this complaint by filling in the below.*

Was the Complaint Justified? (please put ‘Y’ under appropriate justification)	Fully justified	Partially Justified	Not Justified
---	-----------------	---------------------	---------------

Learnings	Action to be taken	Manager responsible	Date for completion

*Please can you send your draft response to me, on or before the deadline date, so that I have the opportunity to offer independent comments that may help limit unnecessary escalation. Please also send me a copy of the final response that you send to the complainant, so that I can update the case file and add the learnings and justification established above.*

*Finally, please don’t hesitate to contact me if I can offer any help, advice, clarification or support regarding the complaints process – and thank you in advance*

*Please find attached the Ombudsman’s guidance on financial remedy if deemed appropriate, and see below a link to Dorset Council’s Style Guide:*

<https://intranet.dorsetcouncil.gov.uk/wp-content/uploads/2019/03/Dorset-Council-Style-Guide.pdf>

**The template for the majority of response appears below:**

Dear Name

**Re: Your Complaint**

Thank you for your letter/email/form dated date of correspondence received on date, which has been passed to me by the Complaints Team.

I am the Job Title for Service/Team and have been asked to investigate and respond to the issues raised by you under the Children’s Social Care procedure at Stage 1. I am sorry that you have had to make a formal complaint about this matter.

I will take each point of your complaint as you have made it and will try to answer the issues you have raised based on the findings from my investigation.

*Insert points of complaint and answers here following investigation*

- 
- 
- 
- 
- 

*As a conclusion (if the complaint is justified or partially justified) please add here any learnings, and any actions being taken to avoid a repetition of the errors that occurred.*

*(Optional but recommended)*

If you would like to discuss my response please let me know by contacting *me* <add contact details>

I hope I have been able to answer your concerns fully and to your satisfaction. However, if you are dissatisfied with my response please contact the Complaints Team again and they will advise the next steps. Please include:

- What issues do you feel are still outstanding?
- What outcomes are you seeking?

The Complaints Team, Chief Executive's Department, Dorset Council, Hall, Dorchester DT1 1XJ (email: [complaints@dorsetcouncil.gov.uk](mailto:complaints@dorsetcouncil.gov.uk)).

Yours sincerely

<<Electronic Signature>>

Name  
Position

The Outcomes are recorded in our Complaints software usually under the following categories

What action(s) have you taken to address this complaint?	
<input type="checkbox"/>	Apology and Explanation
<input type="checkbox"/>	Charges waived or adjusted
<input type="checkbox"/>	Provision of service
<input type="checkbox"/>	Alteration in service
<input type="checkbox"/>	Decision Changed
<input type="checkbox"/>	Reassessment of Needs
<input type="checkbox"/>	Management Investigation / Personnel Procedures
<input type="checkbox"/>	Compensation / Reimbursement paid
<input type="checkbox"/>	Policy Procedure Reviewed
<input type="checkbox"/>	Withdrawn

Action plans are then agreed with the service manager and monitored jointly in the service and by the Complaints team

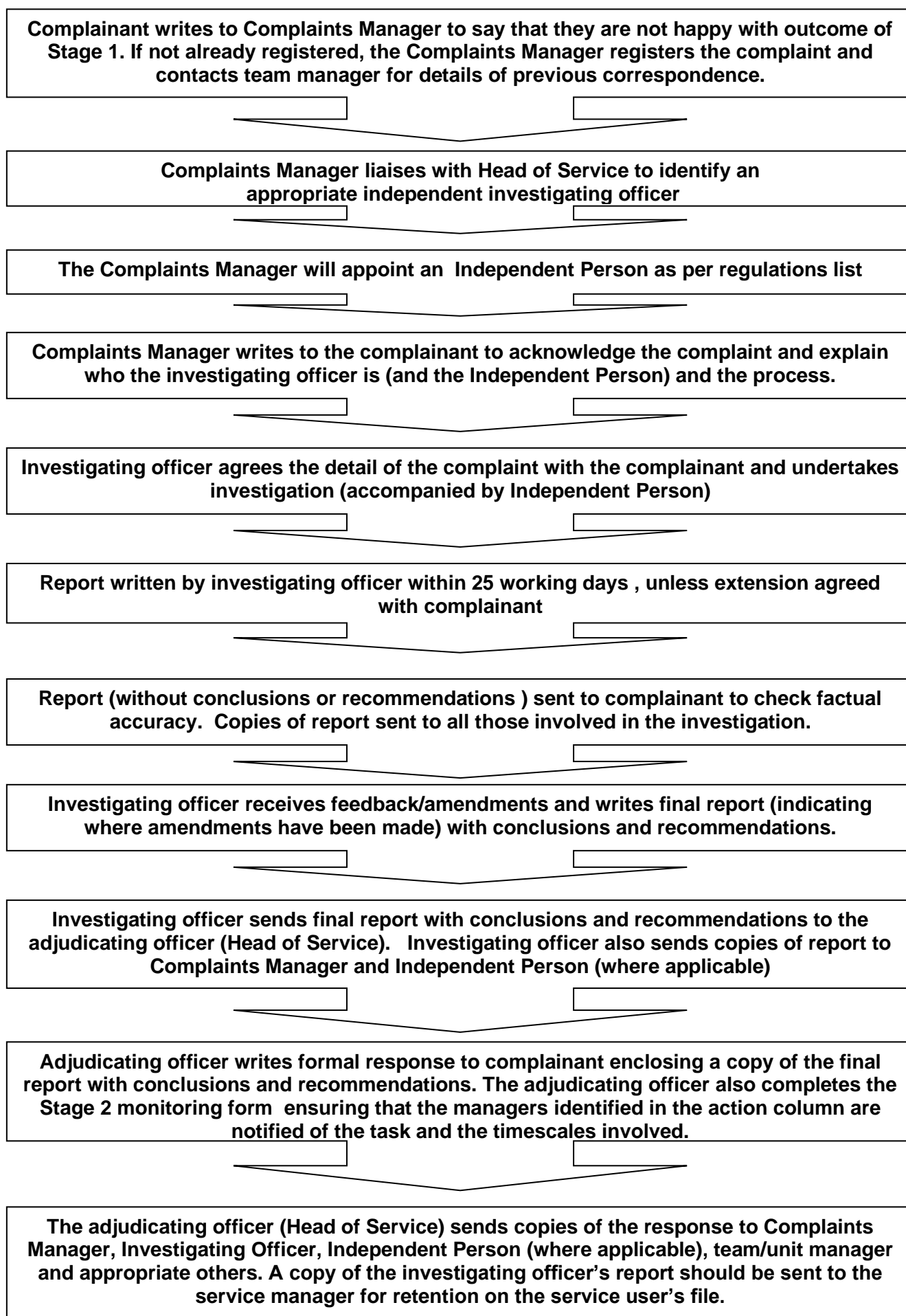
Learning Point category	Details	Action to be taken	Manager responsible	Target date for completion
Amendment to Policy and Procedure				
Amendment to Working Practices				
New system to be implemented				
Staff Training				
Reminder to staff of Policy / Procedure / Working Practices				
Recommendation for thematic audit				
Team meeting				
Supervision				
Other				
No further action				
<p align="center"><b><i>These Actions will be monitored by the complaints team and used for reporting/service improvements</i></b></p>				



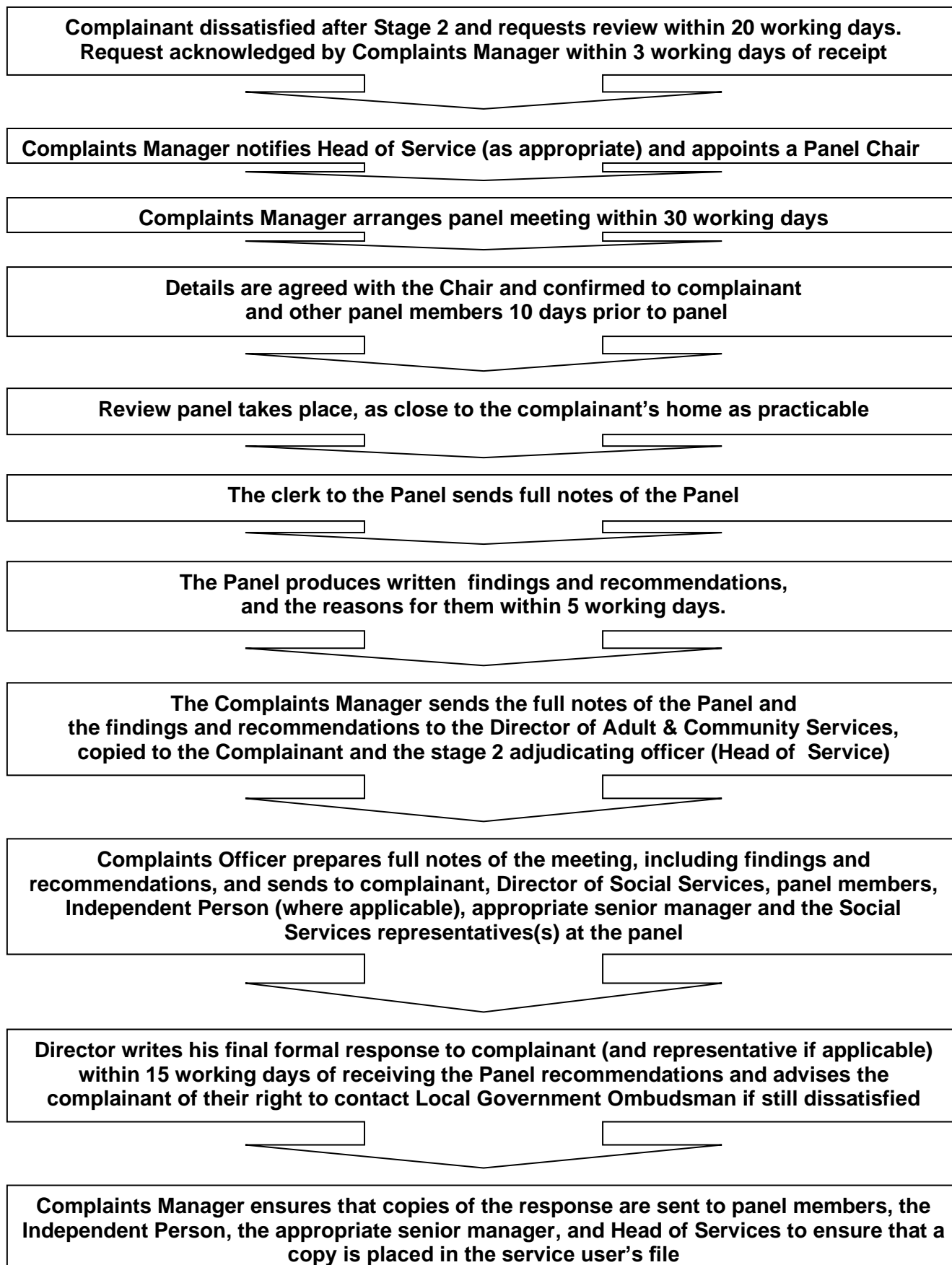
Flow chart for Stage 1 investigations



## Flowchart for Stage 2 investigations



## Flow chart for Stage 3 Review Panels



## Responding to complaints which are inappropriate, persistent, unreasonable or vexatious

### INTRODUCTION

Experience has shown that there are a very small number of people whose complaints can be described as inappropriate, unreasonable or vexatious. Whilst small in number, such complaints may demand an excessive amount of staff time, in dealing with matters which the complaints procedure cannot resolve.

This procedure allows consideration to be given, in certain circumstances, to excluding someone from the complaints procedure. These are complaints which are demonstrably inappropriate, unreasonable or vexatious.

In any individual case staff are advised to exercise caution - a decision not to proceed in accordance with procedures should only be taken if there is no doubt that the exclusion criteria apply. In any case of doubt the complainant should be given the opportunity to pursue the complaint through the system. Any complainant whose complaint is excluded from the procedure should be advised that they can refer the matter to the Local Government Ombudsman.

Although each complaint must be considered on the circumstances of the case, there are a number of categories that present particular difficulties. These include individuals who:

- insist on progressing complaints through all three stages of the procedure, even though it would seem to any reasonable person that the initial complaint had been properly resolved, with an apology where appropriate;
- make representations on matters which cannot be resolved through the complaints procedure either because the matter is outside the jurisdiction of the Directorate or because there is no specific basis to the complaint on which the Directorate can take any action;
- disrupt the work of social workers, managers, secretaries and complaints staff with long, sometimes aggressive and abusive telephone calls, where all efforts to resolve matters only lead to a further list of points or issues on which the complainant repeatedly and unreasonably expects the Directorate to take action.

Some of these complaints may also involve additional telephone calls and correspondence with solicitors, county councillors, the Ombudsman, MPs and even petitions to the Queen. The behaviour of a small but increasing number of complainants commits high levels of staff time and unnecessary expenditure on matters that the complaints procedure cannot itself resolve or redress.

### CRITERIA

It is important to maintain public confidence in the complaints procedure and uphold the key principles on which the existing arrangements are based. The following criteria should enable staff to deal appropriately and sensitively with this small number of complainants.

#### Decisions of the Court

Complaints will sometimes be made about matters, which are or have been before the courts. Any decision to exclude such a complaint must be preceded by careful identification of the particular issue(s) which the complainant seeks to raise and the remedy which is sought.

If the issue in question is not something on which the court has the authority to adjudicate, the complaint should proceed in accordance with normal procedures. On the other hand, the complaint may be excluded if the issue is either:

- one on which the court has the authority to adjudicate, or
- one on which the court has already adjudicated in a manner which leaves the authority no

discretion.

The decision to exclude a complaint from the complaints procedure under the criteria set out in paragraph 2.3 above must be made by the Director, or the relevant Head of Children's & Families Services, in consultation with the Head of Legal Services and the Designated Complaints Manager. The reasons for such a decision must be recorded in writing and communicated to the complainant.

### **Unreasonable Complaints**

The administrative framework of the Complaints Procedure which provides for all complainants to receive an acknowledgement, a written response, investigation and review at different stages within specified timescales, is manipulated and abused by a small minority of people.

This policy introduces two tests for all complaints received at the initial stage. These are:

- that the complaint appears reasonable in the context of the Directorate's responsibilities and the service it provides;
- that the resolution or redress being sought can realistically be achieved within the framework of the Complaints Procedure.

These tests will be applied locally by service managers and their staff, if necessary in consultation with senior managers, in considering all Stage 1 complaints.

In addition, before any complaint proceeds to Stage 2 investigation or the Review Panel at Stage 3 the complainant is asked to confirm:

- the outstanding complaint(s) that the Stage 1 response has not satisfactorily dealt with, and
- the redress or resolution that the complainant is seeking from the procedures.

It is reasonable that complainants should clarify their expectations of the complaints procedure and the particular issue which has not been satisfactorily resolved before committing staff time and the Directorate's resources to further investigation and/or review.

The decision to exclude a complainant from Stage 2 or Stage 3 of the procedure will be made by the Director, or his nominated Deputy, on the advice of the appropriate senior manager with responsibility for the case (i.e. Head of Service) and in consultation with the Designated Complaints Manager. The Director will seek the advice of Legal Services in cases where such action may be considered by the complainant to be unreasonable, or the issue is already the subject of a complaint to the Local Government Ombudsman, who may have deferred consideration of the matter pending the conclusion reached by the Directorate.

Where a decision is taken not to consider a complaint within the complaints procedure the reasons must be recorded in writing and communicated to the complainant.

### **Vexatious Complaints**

A small number of service users or their carers or relatives complain with a frequency, persistency and manner which is unnecessarily time consuming, disruptive to day to day work and, on occasions, involves verbal abuse of staff. They invariably seek resolution or redress beyond the remit of the complaints procedure.

In such situations, staff need to establish whether a complaint has been previously heard or whether it is simply a continuation or variation of one which has already been considered.

All staff receiving abusive telephone calls should, wherever possible, advise the person that the call will be terminated if the abuse continues. Staff are always entitled to terminate such calls.

Where it is considered that telephone calls should not be accepted from a persistent complainant or that (applying the above criteria) a complaint should not be progressed, the Team or Unit Manager should convene a meeting or organise a telephone consultation with the staff involved to

consider the appropriate course of action. This may include:

- reducing the number of contact points (ideally to one named person);
- informing relevant staff, including secretaries and clerical assistants within the Directorate about the need to ensure a co-ordinated response to such complaints;
- offering independent advice/support to the complainant;
- considering whether or not the formal Stage 2/3 procedures should be invoked
- in exceptional circumstances, seeking independent or medical opinion on the messages/correspondence where there are indications of obsessive/compulsive behaviour, both to assist those handling the complaint and to be fair to the complainant.

The Director, or his nominated Deputy, on advice from the appropriate senior manager, is required to approve any decision not to accept telephone calls concerning a vexatious complaint from being considered within the complaints procedure. The agreed course of action should be recorded and the complainant informed of the decisions that have been reached and the reasons for this.