

## **CHILDRENS SOCIAL CARE**

## **COMPLAINTS AND REPRESENTATION PROCEDURES**



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## 1. Introduction

- 1.1 This policy sets out the Council's duties when responding to Statutory complaints about Children's Social Care and is the policy from which the procedures for managing service user complaints are developed and where the specific instructions are defined.
- 1.2 The policy does not cover complaints which fall outside of the definitions in section 5. Complaints falling outside of this description are dealt with under the [Corporate Complaints Procedure](#).

## 2. Background

- 2.1 Bolton Council is a learning organisation. This means that we value the feedback our service users give us as it helps us to continually improve the quality of our services.
- 2.2 All feedback from service users about our services is seen as an opportunity to learn and to improve the services we provide or commission.
- 2.3 Social care staff work very hard to get the job right first time but, with busy services, mistakes can happen. However, if services can get their response to these mistakes right, the people affected are less likely to be unhappy and future problems can be prevented.
- 2.4 When a mistake has happened, it is important to acknowledge it, put things right quickly and learn from the experience.
- 2.5 In every case, those who complain should feel confident that their complaint will be dealt with properly – in other words, that it will be handled efficiently and investigated.
- 2.6 Children's Services are committed to the protection of service users and is committed to the 'duty of candour' which places a duty on all professionals to be open and frank with service users.

We will ensure as far as practically possible, that:

- Service users, or where appropriate, their next of kin/representative, will be fully informed of any incident in our care which is suspected of having caused or may result in harm to the service user in the future
- That staff are provided support in reporting incidents

## 3. Aims

- 3.1 The aims of this policy are
  - To ensure statutory Children's Social Care complaints are handled in the correct way.
  - To ensure the Department '**learns lessons**' from the experiences of our service users and improves the quality of services as a result.
  - To help create a culture that encourages people to share their experiences so that we can make services more effective, personal and safe.

## **4. Context**

4.1 These procedures are based on the content of the following statutory instruments and guidance issued as Section 7 Guidance under the Local Authority Social Services Act 1970:

- Statutory Instrument 2006 No 1738 – The Children Act 1989 Representation Procedure (England) Regulations 2006.
- Getting the Best from Complaints – Social Care Complaints and Representations for Children, Young People and Others.
- NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012/3094.
- Data Protection Act 2018
- Equalities Act 2010.
- Human Rights Act 1998

## **5. Definitions**

5.1 The Council's definition of a child is a person aged Under 18 and under 19 if a child with a diagnosed disability

5.2 A complaint is "an expression of dissatisfaction, however made, about decisions, the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual or group of individuals" (LGSCO<sup>1</sup>)."

5.3 A statutory social care complaint is set out in law and is anything which relates to the social care services that the Council either provides or commissions.

5.4 Complaints falling outside of this description are dealt with under the Corporate Complaints Procedure.

5.5 Service users can offer their comments at any time to any service that we provide or that we commission – we welcome feedback. Service users should be reassured that the service they are receiving will never be adversely affected by giving feedback and service users can comment anonymously if they wish. General comments do not form part of the formal complaints procedure and if service users wish to complain about social care services this policy will apply. Making general political comments about Social Care Services is also not part of this Policy or the complaints procedure.

## **6. Managing Statutory Social Care Complaints**

6.1 Where possible, complaints should be resolved quickly and informally. Informal resolution is often what the service user wants and is a far more effective and efficient use of staff resources.

6.2 Where informal resolution is not possible, it must be considered whether this policy applies or whether it should be dealt with under an alternative process

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<sup>1</sup> LGSCO – Local Government and Social Care Ombudsman



- 6.3 Statutory Children's social care complaints follow a multi-stage process which ensures formal complaints are investigated thoroughly and complainants have a right to an appeal.
- 6.4 Complaints which fall into the definitions outlined in Section 5 of this policy should follow the following process.
- Stage 1 – Investigation
  - Stage 2 – Appeal
  - Stage 3 – Review Panel
- 6.5 Following completion of this process, the complainant has recourse to the Local Government and Social Care Ombudsman (LGSCO) and **may refer the matter the LGSCO if they are not satisfied with the outcome of the complaint (by the council)**. Usually, all stages of the Local Authority's complaints procedure must be completed before the Ombudsman will look at any complaint. The LGSCO can look at complaints about things that have gone wrong in a way that a service has been delivered; if the service has not been delivered at all; the way a decision has been made and has caused problems for you. The LGSCO cannot question what a Council or Care Provider has done simply because the complainant does not agree with it.
- 6.6 All children's complaints will normally have a right to access to Stage 2 and Stage 3 once accepted at Stage 1.
- 6.7 The Quality Assurance and Improvement Team are responsible for facilitating the complaints process. For help with this policy or process please contact [quality@bolton.gov.uk](mailto:quality@bolton.gov.uk) or phone 01204 334236

## 7. Safeguarding

- 7.1 Where the person involved in a complaint is a child or young person at risk and there is reason to believe that a person is deliberately or unknowingly causing them harm or has caused them harm, then consideration must be given to the safeguarding implications, both to the person at the center of the concerns and to other vulnerable children, young people who are potentially at risk in relation to the concerns.
- 7.2 Safeguarding investigations will take precedence to the complaint's investigation.
- 7.3 Further safeguarding guidance can be found via [Safeguarding Children's](#) Web page.

## 8. Who Can Make a Complaint?

- 8.1 A person is eligible to make a complaint where the Local Authority has a power or duty to provide, or to secure the provision of, a service for that person and the need or possible need for such a service has come to the attention of the Local Authority. This also applies to a person acting on behalf of someone else.
- 8.2 Section 26(3) and Section 24 D of the Children Act, 1989 and Section 3(1) of the Adoption and Children Act, 2002 requires the responsible authority to consider representations including complaints made to it by:
- Any child or young person (or parent or person who has parental responsibility) who is being 'looked after' by the local authority or is a 'child 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) to whom a **special** guardian is in force.
- Any person who has applied for an assessment under special guardianship.
- Any child or young person who may be adopted, their parents or guardians.
- Persons wishing to adopt a child.
- Any other person to whom arrangements for the provision of adoption services extend.
- Adopted persons, their parents, natural parents and former guardians.
- Such other persons as the Local Authority consider has sufficient interest in the child or young person's welfare to warrant their representations being considered by them.

## 9. Who is Exempt from this Policy and Procedure?

9.1 The complaints part of this procedure does not apply when:

- The person wishing to complain does not meet the requirements above in section 8.
- Where the same complaint has already been dealt with at all stages of this procedure.
- The complaint is unclear, frivolous or vexatious.
- The complaint should be dealt with under other proceedings such as:
  - ❖ Disciplinary proceedings.
  - ❖ Grievance procedure.
  - ❖ Complaints from staff about personal issues.
  - ❖ Complaints that should be considered under the Council's Corporate Complaints Procedure.
  - ❖ Services for which an alternative statutory appeals process already exists.
  - ❖ Criminal investigation where court action is pending
  - ❖ Court proceedings.

9.2 The Council has discretion in deciding whether to consider/investigate complaints where to do so would prejudice any of the following concurrent investigations:

- Court proceedings.
- Tribunals.
- Disciplinary proceedings.
- Criminal proceedings.

There may be some matters which are more properly dealt with under a judicial process.



## **10. Time Limit for Making a Complaint**

- 10.1 In order for a complaint to be accepted under this policy, the complaint must be made no later than:
- a) 1 year after the incident occurred.
  - b) 1 year after the complainant realised, they had reason to complain.
- 10.2 If a complaint is made outside of these time limits, we may decide to accept the complaint if the complainant had good reasons for not doing so within the stipulated time period, and it is still possible to investigate effectively. Each instance will be considered on its own merit and a decision made by the appropriate Head of Service.

### **How to make a complaint**

Complaints should be submitted to the QA Team using the contact details below and that if a complaint is made verbally it will be confirmed in writing.

The Quality Assurance and Improvement Team  
1<sup>st</sup> Floor  
Town Hall  
Victoria Square  
Bolton BL1 1RU  
By email to [quality@bolton.gov.uk](mailto:quality@bolton.gov.uk)  
By telephone on 01204 334236

## **11. Complaints about residential facilities.**

- 11.1 Complaints made by children, or young people or their representative about the service they have received in a children's home run by Bolton Council will be handled under this policy.
- 11.2 Complaints from members of the public or from those not listed above, about Children's Homes run by Bolton Council will be dealt with under the [Corporate Complaints Procedure](#).
- 11.3 Complaints about Children's Homes run by other organisations and commissioned by Bolton Council must be made to the organisation concerned. However, as part of their contract, organisations must make Bolton Council aware of all complaints received so that responses, learning and improvement can be monitored.

## **12. Collective Complaints**

- 12.1 Where a group of children or young people, or their representatives wishes to make a complaint, and the issues being raised are substantially the same or linked or they make the complaint together as a group, then these can be treated as one complaint.

## **13. Anonymous Complaints**

- 13.1 Anonymous complaints should be recorded and referred to the Quality Assurance and Improvement Team in the same way as other complaints. This policy does not apply to anonymous complaints, but they may be referred and investigated under other procedures such as whistleblowing or HR.



## **14. Managing Joint Complaint between health service and social care services**

- 14.1 Where a complaint covers services arranged by the NHS as well as Adult Social Care, one of the organisations will take the lead on the complaint. It is our aim to provide a co-ordinated response wherever possible in such cases.
- 14.2 If the complainant does not wish the complaint to be sent to the NHS body responsible, then we will only be able to address those aspects of the complaint that relate to services Adult Social Care provide or commission.
- 14.3 The Complaints & Improvement Officer facilitating the complaints process will manage such joint complaints via the joint process. [See appendix 4.](#)

## **15. Complaints by Foster Carers**

- 15.1 Local Authority foster carers are eligible to make representations and complaints on behalf of children and young people under these procedures.
- 15.2 Foster carers may also wish to make representations about the service they receive from the Council as foster carers. In the absence of specific guidance or regulation about this, Bolton Council has decided that such complaints will be considered to be Social Care Complaints (matters relating to services provided for children and young people) and subject to the same process as other matters within this policy.
- 15.3 Where a foster carer wishes to make representations about aspects of the process for reviewing their approval as a foster carer they should do so within 28 days of the Fostering Panel Meeting, prior to the Assistant Director making a decision. Any such complaint will be dealt with at **Review Panel Stage** of this policy.
- 15.4 Where a prospective foster carer feels aggrieved about aspects of the application process, they may make a complaint to the Department prior to the Assistant Director making a decision regarding their suitability to become a foster carer. Any complaint must be made within 10 working days of the second fostering panel meeting and will be investigated under this policy. The Assistant Director will make a decision within ten working days of the response to the complaint based on the recommendations of the fostering panel and any learning and service improvements identified in the complaints process. This decision is final.

## **16. Independent Social Care Providers**

- 16.1 Independent social care providers have their own complaints procedures and complaints about their services should be directed to the organisation providing the care. Bolton Council will ensure the provider has in place a complaints procedure that complies in all respects with any applicable legislation.

The Provider should send the Council's Quality Assurance and Improvement Team a copy of any complaint response in relation to any individual who receives a directly commissioned council service.

- 16.2 There are a number of instances when an exception would be made to this, which is:
- When the complainant has already complained to the provider and is not satisfied by the response.

- When the Complaints Manager considers it be a matter that relates more directly to the exercise of the local authority's functions which are covered by this policy.
- When the complaint is about the Registered Manager.
- When the complaint relates to issues which have been previously identified as an area of concern for the provider, or when there are on-going issues with the performance of a provider. If this is the case this will be brought to the attention of the Head of Contracts and Commissioning who will coordinate a response to the concerns raised.
- When the complaint has safeguarding implications – consideration should be given to Bolton's Safeguarding Adults and Safeguarding Children's Policy's as with any other concern of this nature. If appropriate, consideration should be given at the initial receipt of information as to whether there is any possibility the Independent Social Care Provider's Responsible Person is directly involved or complicit.

16.3 When complaints do come to the Council about an independent provider, the complaint will be passed to the provider to investigate and respond to; and a copy will be given to the Commissioning Team for intelligence purposes.

16.4 Independent providers must, as part of their contract, make Bolton Council aware of all complaints received so that responses, learning and improvement can be monitored.

## 17. Confidentiality and Consent

17.1 All information received by the Department will be treated in strict confidence and will not be shared with any third party without the consent of the service user with the exception of becoming aware of a safeguarding concern. In order to investigate any complaint properly, information may need to be shared in order determine the outcome of an investigation

17.2 Any relative, carer or friend of a service user is entitled to make a complaint about the service they have received.

17.3 **The Department can only provide a response to the complainant with the consent of the service user, their next of kin or person deemed to have sufficient interest.** This is in line with guidelines laid down by the Data Protection Act 2018 in the interest of protecting service user confidentiality. The Act states that service user consent is fundamental to the collection and use of personal information and that releasing information without the service user's consent could amount to "unlawful disclosure".

17.4 For complaints made by a third party about the service received by a child, due regard must be given to the **'Gillick' competency guidelines**. These guidelines say that young people who are under 16 are competent to give valid consent to a particular intervention if they have sufficient understanding and intelligence to enable them to understand fully what is proposed and are capable of expressing their own wishes.

## 18. Advocacy and Support

18.1 Complaints handling by the Council must be child and young person friendly and appropriate to their age and understanding. The Council is required to provide information about the advocacy service and offer help to obtain an advocate.

18.2 Parents or guardians who are complaining on a child's behalf may be offered advocacy to support them if they have a disability which affects their ability to engage fully in the complaints process. Evidence of their disability should be provided so that the resource is allocated appropriately.



- 18.3 For matters requiring legal support, complainants will be sign-posted to the Citizen's Advice Bureau ([www.boltoncab.co.uk](http://www.boltoncab.co.uk)) or their own solicitor.

## **19 Reasonable Adjustments**

- 19.1 The Council is committed to taking action to ensure that the way we work does not place people with disabilities at a disadvantage. We want to remove the barriers some of our complainants have in making complaints.
- 19.2 We have a legal duty to consider making adjustments if we find that there are barriers to people with disabilities in the way we do things. If those adjustments are reasonable, they must be made.
- 19.3 The duty is 'anticipatory'. This means that the Council cannot wait until a person with a disability wants to use the service. We must think in advance, and on an ongoing basis, about what people with a range of impairments, such as people who have a visual or hearing impairment, a mobility impairment or a learning disability, might reasonably need.
- 19.4 The Equality Act 2010 requires us to provide reasonable adjustments for people who are "disabled". Under the Act this means they have a "physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities".
- 19.5 The duty is to make "reasonable adjustments" if the way that we carry out our functions places a disabled person at a "substantial disadvantage" compared to someone who does not have a disability.
- 19.6 We will do our best accommodate requests even if you don't have a disability as defined by the Equality Act 2010.

### **What are reasonable adjustments?**

- 19.7 Reasonable adjustments are not defined by the Ac, but there is a Code of Practice which gives guidance as to the kind of adjustments that could be made.
- 19.8 Making a reasonable adjustment means making a change to our usual practices to avoid or correct a disadvantage to a person who has a disability in accessing our service. Depending on your needs, this could include:
- Providing documents or correspondence in larger print, or with a specific colour contrast (which may help people with conditions such as dyslexia)
  - Giving you more time than would usually be allowed to provide further information or comments on your complaint
  - Using the telephone rather than written communication (e.g. if you have a visual disability)
  - Translating documents or correspondence into Braille
  - Communicating with you through your representative or advocate

### **Asking for reasonable adjustments**

- 19.9 When you first contact us, we will ask you if you have a disability and whether you might need an adjustment to help you use our service, but you can also ask for a Reasonable Adjustment at any time during our consideration of your complaint.
- 19.10 We will also suggest new or additional adjustments if we feel it might help you continue to make the best use of our service.

## **Our response to requests**

Before agreeing an adjustment, we will consider:

- What the disadvantage would be if the adjustment were not made
- Whether the adjustment will be effective in reducing the disadvantage
- How practical it is to make it
- Whether it would disrupt our other activities unreasonably
- The cost and availability of resources, including external help and finance

19.11 We will try to agree a reasonable adjustment with a minimum of delay, but in some cases we may need to consider the request in more detail.

19.12 There may be circumstances where we decide not to meet the request. The law says that an adjustment only has to be made if it is “reasonable”. We need to take account of the cost or resource implications of making the adjustment, whether the request itself is reasonable and whether there is a less expensive way of meeting the request. Where it is very difficult to provide the adjustment or meeting it would interfere with our ability to meet our legal obligations, we may decide it is not “reasonable”.

19.13 We will look at each request individually and will aim to agree any adjustments with you to avoid us making incorrect assumptions about your needs. Where we do not agree an adjustment, we will explain why. When we agree a reasonable adjustment we will let you know in writing.

## **20. Withdrawal of Complaints**

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

20.2 The Complaint and Improvement Officer/s, Service Manager and Head of Service may review the issue of concern and consider whether further investigation is required through other internal management systems.

## **21. Learning Lessons and Service Improvement**

21.1 By listening to people about their experiences of social care services, the Department can resolve issues faster, learn new ways to improve and prevent the same problems from happening in the future. In short, by dealing with complaints more effectively and learning from them, services can get better, which will improve things for the people who use them as well as for the staff working in them.

## **22. Complaints in Relation to Court Proceedings**

22.1 Complaints can be made regarding:

- Application for care and supervision orders.
- The effect of a care order on a child or young person.
- The Local Authority’s actions and decisions where a care order is made.



- Performance of duties where a supervision order is in force.
- Application for and duties in relation to child assessment orders.
- Application for Emergency Protection Orders.
- Decisions relating to the return of children who have been removed on an Emergency Protection Order.
- Quality/accuracy of social work information and reports provided to court.
- The duties of the local authority in relation to the placement of children for adoption by adoption agencies.
- The list is not exhaustive

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

- 22.2 If the complaint is about the decision of the court, the complainant will be encouraged to seek legal advice about making an appeal at court. This will **not** be dealt with as a complaint. If the complaint is about the actions of the local authority and its staff it may be considered under this procedure.
- 22.3 If proceedings are ongoing, they cannot be frozen pending the outcome of a complaint. The outcome of a complaint **cannot overturn a court's decision**. If the substance of the complaint alleges inaccuracies in the information provided to court that might influence the decision of the court, the complainant will be encouraged to seek legal advice to address this within the court arena. This will be treated as a concurrent consideration.
- 22.4 Other matters may be considered while proceedings are ongoing, e.g.
- Attitude / behaviour of staff.
  - Delays in providing services.
  - Failure to make appropriate contact arrangements.
- 22.5 If the complaint is resolved before court proceedings are concluded, the Service Manager must consider whether the outcome has a bearing on the court proceedings and advise the court as necessary.
- 22.6 If the outcome of the complaint finds that inaccuracies in the information provided to court may have influenced the decision of the court, this may form the basis for the service user/complainant to make applications to the court for a decision to be reviewed.

## **23. Complaints and Special Guardianship Support Services**

- 23.1 Special Guardianship Regulations 2005 came into force on 30 December 2005, under those Regulations the following functions may be the subject of a representation or complaint:
- financial support for Special Guardians;
  - support groups for children and young people to enable them to discuss matters relating to Special Guardianship;
  - assistance in relation to contact;
  - therapeutic services for children and young people; and
  - Assistance to ensure the continuation of the relationship between the child or young

person and their Special Guardian or prospective Special Guardian.

## **24. Unreasonably Persistent Complainants**

24.1 The Council acknowledges that every service user has a right to complain.

24.2 Features of a 'persistent complainant' may include:

- A person who makes the same complaint repeatedly (with minor differences), but never accepts the outcomes;
- A person who seeks an unrealistic outcome and persists until it is reached; or
- A person with a history of making other reasonably persistent complaints

24.3 An unreasonably persistent complaint is likely to include some or all the following:

- An historic and irreversible decision or incident
- Frequent, lengthy, complicated and stressful contact with the local authority staff;
- The complainant behaving in an aggressive manner to staff or being verbally abusive or threatening;
- The complainant changing aspects of the complaint partway through the investigation or Review Panel
- The complainant making and breaking contact with the local authority on an ongoing basis; and
- The complainant persistently approaching the local authority through different routes about the same issue in the hope of getting different responses

24.4 On most occasions when we consider someone's behaviour unreasonable, we will explain why and ask them to change it. We will also warn them that if the behaviour persists, we will take action to restrict their contact with our services.

24.5 If the behaviour is so extreme that it threatens the immediate safety and welfare of our staff, we may report the matter to the police or consider taking legal action. On such occasions we may not give any warnings.

24.6 The Council will not tolerate deceitful, abusive, threatening, violent or other forms of unacceptable behavior from complainants. When it occurs, we will take proportionate action to protect the well-being of our staff and the integrity of our processes.

24.7 In line with the Council's Unreasonable Complainant Behaviour Policy the Monitoring Officer will decide whether the circumstances justify any restriction to services.

## **Appendix 1 – Complaints Process**



## **Investigating a formal complaint (Stage 1)**

A Stage 1 investigation will normally be the responsibility of the manager of the team subject to the complaint/s.

When the complaints officer receives a complaint, this will be considered under Stage One and the Complaints Officer will:

Acknowledge the complaint within 3 working days.

Notify the appropriate line manager

Request that the line manager attempt to resolve the complaint within the timescales.

Complaints should be investigated and responded to within 20 working days of acknowledgement.

Complainants should be informed by the investigating officer if timescales require extending.

The purpose of an investigation is to:

- Establish the facts
- Identify what has gone wrong
- Identify what can be done to rectify the situation for the complainant
- Identify any improvement activity to avoid the same thing happening again in future
- Produce a response for the complainant which sets out clearly the findings, whether their complaint has been upheld, not upheld or partially upheld and what actions the Council has or will be taking.

## **Appeal (Stage 2)**

If the service user or their representative is not satisfied with the stage 1 response, they can 'appeal'. The appeal must be made within 20 working days of receipt of the stage 1 response.

If someone appeals the outcome of stage 1, the matter will normally be investigated again by an Independent Investigator. The Assistant Director responsible for that service. The Independent Investigator will be supported by an Independent Person whose job is to make sure the Independent Investigator follows the correct process. The complainant will be notified of the allocated Investigator, and the contact details of the complainant will be shared with the Investigator.

The purpose of the stage 2 investigation is to look again at the facts and check the complaints policy has been followed.

The stage 2 investigation will be overseen by an Independent Person appointed by the QA team.

Stage 2 Complaints should be investigated and responded to within 25-65 working days of acknowledgement.

## **The Investigation**

Upon being appointed, the investigating officer will:

Conduct and 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 officer, this with the local authority's response needs to be sent to the complainant within 25-65 working days of the receipt of the complaint.

### **Actions following investigation**

Upon receiving the Investigation Officers reports and any supplementary report provided by the Independent Person, the complaints officer will:

Send a copy of the report(s) to the relevant manager of the service complained about and, if the complaint concerns front-line service providers, the staff themselves.

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.

### **Stage Three – Review Panels**

If the complainant remains dissatisfied after the stage 2 investigation, they have a right for their complaint to be reviewed by a panel of independent people.

The role of the Panel is to review the way in which the complaint has been investigated and, if required, make recommendations to the Council.

The Panel will be arranged and facilitated by the Quality Assurance and Improvement Team.

### **Summary of Review Panel timescales**

<b>Action</b>	<b>Time</b>
Complainant requests Review Panel	Up to 20 working days after receipt of the Stage 2 adjudication
Complaints Officer acknowledges request	Within 2 working days
Complaints Officer appoints Chair and confirms attendees and content of Panel papers with Chair	Within 10 working days of the complainant's request for Review Panel
Local authority agrees the other Panellists and date for Review Panel	Within 30 working days of the complainant's request for Review Panel
Local authority circulates Panel papers	Within 10 working days of the date for the Review Panel
Review Panel produces its written report (including any recommendations)	Within 5 working days of the Review Panel
Relevant Director issues his response	Within 15 working days of receiving the Review Panel's report

### **Appendix 2 - Process for Handling of Joint Complaints between Health Care and Social Care Services.**

Note this process will be facilitated by the Complaints and Improvement Officer.



**Aim:** To provide a single agreed process for responding to complaints, which involve both Adult Social Care Services and our NHS colleagues.

**Scope:** This protocol will apply when an organisation receives a complaint, which makes reference to an adult social care service provided by Bolton Council and a health service provided by a NHS body.

[The Local Authority Social Services and National Health Service Complaints \(England\) Regulations 2009](#) make provision for the joint handling of complaints between local authorities and NHS bodies.

### **Information Sharing:**

Information Sharing Acceptance of this protocol implies agreement to information sharing between organisations within the constraints of the Data Protection Act (2018). Issues of confidentiality will be the responsibility of all complaints managers/officers and consent from a complainant will be required to ensure joint complaints can be effectively investigated.

### **Identifying the Lead Organisation:**

The lead organisation will normally be the organisation against which the major component of the complaint is made.

However, the consideration should be given to the following factors:

- Which organisation has the larger number of issues raised against it?
- Which organisation holds the most serious elements of the complaint?
- Where the two above factors are balanced, which organisation originally received the complaint?
- Where there is an integrated service, which organisation manages the service?
- Whether the complainant has a clear preference for which organisation takes the lead.

### **Roles and responsibilities:**

Processing of any complaint will generally sit within an organisation's complaints team and, should follow individual organisational escalation procedures where needed.

#### The Receiving Organisation will:

- Acknowledge receipt of the complaint.
- Gain consent from the complainant to share information with the other associated organisations.
- Share the complaint details with the other associated organisations and identify who will act as the lead organisation.

#### The Lead Organisation will:

- Clarify with the complainant the nature of their complaint, ensuring that the complainant's desired outcomes are clearly recorded and shared with relevant parties.

- Notify the complainant of how the joint arrangements will work and provide an indicative timescale for completion.
- Supply the complainant with point of contact details.
- Supply each organisation party to the complaint with contact details and agree the method for sharing updates/information.
- Communicate with the complainant in a timely manner including updating the complainant regarding any delays in the process.
- Obtain any additional consent to share information.
- Draft the response letter, seeking approval from all other parties involved before a final copy is sent to the complainant.
- Where other concerns arise as part of the process (i.e. disciplinary, safeguarding, fraud etc) the complaints officer will facilitate a discussion between the other organisations to agree a way forward.
- Monitor and record the outcome of any required actions which arise because of the complaint.
- Where a complainant is dissatisfied with the response process to the next stage of the complaints process.

#### Organisations party to the complaint will:

- Fully investigate their respective elements of the complaint.
- Update and provide responses to the lead organisation in a timely manner.
- Ensure that response to the complaint is agreed in accordance with their own internal governance procedures.
- Update the lead organisation on the outcome of actions which have arisen as a result of the complaint.

#### Delays to a Joint Response

On occasion one or more of the organisations involved in the complaint may not be able to meet response timescales. For example, where the investigation within one of the organisations is complex. In these circumstances the lead organisation will:

- Contact the complainant to discuss whether the complainant would wish to wait until a joint response is completed.
- Where the complainant agrees to wait until the joint response is completed, the lead organisation will continue to provide oversight around progress and, will ensure the complainant is regularly updated.
- Where the complaint is happy to receive a separate response from each organisation the lead organisation will facilitate this, continue to provide updates to the complainant and oversight of the complaint until its completion.