

**Luton**

# **CHILDREN'S SOCIAL CARE COMPLAINTS PROCEDURE**

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# Children's Social Care Complaints Procedure

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# **Procedure for Complaints concerning Children's Social Care Services**

## **1. INTRODUCTION**

1.1 The Children Act 1989 Representations Procedure (England) Regulations 2006, require that Children's Service Departments have Complaints Procedures. They regulate the procedure which Local Authorities follow in consideration of representations made to them under the 'Children Act 1989' and the 'Adoption & Children Act 2002'.

1.2 These laws emphasise respect for the dignity, choices and involvement of service users. The Complaints Procedure must reflect this and enable us to respond to customers' anxieties and worries in an efficient, open-minded and helpful fashion.

1.3 The Procedure complements Luton Council's Corporate Complaints Procedure, which covers complaints relating to other issues under the responsibility of the Council.

1.4 Where the complaint involves services provided by another agency or department, we would consider at a very early stage whether a joint approach/investigation is appropriate or which department will deal with the complaint.

## **2. OBJECTIVES**

2.1 We will ensure continuous improvement in the quality of the services we deliver by listening to our customers and responding positively to their comments and complaints.

## **3. PRINCIPLES**

3.1 We welcome complaints as an important part of improving our service and ensuring quality.

3.2 We are committed to making changes in our services where a complaint shows a need for change.

3.3 We are committed to ensuring that our complaints system is fully accessible to everyone.

3.4 We are committed to establishing what the complaint is together with the desired outcome at an early stage.

3.5 We are committed to responding to complaints speedily and, wherever possible, to achieving an outcome that is agreeable to the complainant.

3.6 All service users may enlist the help of an advocate in making their complaint.

3.7 We aim to achieve the easiest, least stressful way to involve the complainant in the complaints process.

## 4. DEFINITIONS

4.1 For the purpose of the procedure we view **comments** as observations and/or expressions of opinions about our service, which we take into account when we are assessing the quality of service provided, but comments will not be viewed as complaints.

4.2 Our working definition of a **complaint** is “an expression of dissatisfaction or a grievance in respect of which the customer seeks **action** to be taken with a desired **outcome**.”

4.3 Compliments received are logged and reported on.

## 5. WHO CAN MAKE A COMPLAINT

5.1 Service users, prospective service users, carers and all those who can establish that they are a ‘significant other’ can make a complaint. This procedure relates to Social and Community Care services provided within the Children, Families and Education Directorate

5.2 Under the Adoptions & Children Act 2002 it is our duty and obligation to provide all children who make a complaint with an advocate.

5.3 Wherever a complaint is received and there are current court proceedings the service will advise the Complaints team who will notify the complainant that their complaint cannot be considered until the court proceedings are completed.

5.4 A complainant must make their representations about a matter no later than 12 months after the grounds to make a complaint arose. This is unless it would not have been reasonable to expect the complainant to have made the representations within the time limit. After this period has elapsed the complainant still has a right to approach the Local Government Ombudsman.

## 6. HOW TO COMPLAIN

6.1 Anyone who wishes to make a complaint may do so in person, by telephone, or in writing (by letter or e-mail.) Complaints should be directed to the

Complaints and Information Governance Team,  
Luton Council  
Luton Townhall  
George Street  
Luton  
LU1 2BQ  
01582 546398  
feedback@luton.gov.uk

## **7. THE RIGHTS OF THE INDIVIDUAL**

7.1 The Complaints Procedure does not affect in any way the right of an individual or organisation to approach a Local Councilor or Member of Parliament for advice or assistance. If this results in a complaint made on behalf of the individual, it will be routed through the Complaints Procedure and be treated as a Stage 1 complaint or MP enquiry depending on the details of the case.

7.2 People with Mental Health conditions and their carers who wish to complain about the mental health service they have received can complain direct to:

CAMHS (Child and Adolescent Mental Health Services).  
Luton CAMH Team,  
1st Floor Charter House,  
Alma Street  
Luton  
Bedfordshire  
LU1 2PL  
01582 708140

Further information on the [Mental Health Act 1983](#) can be found at [legislation.gov.uk](http://legislation.gov.uk)

This does not affect an individual's right to complain to Children's Services.

## **8. ROLES & RESPONSIBILITIES**

8.1 The ultimate responsibility within the Children, Families and Education Directorate for all complaints lies with the Corporate Director of the Children, Families and Education.

8.2 The Complaints Team and has responsibility for logging all complaints received directly by them. The complaints team and the service will work together to ensure all timescales are met.

8.3 The Complaints team is responsible for determining and clarifying the complaint, monitoring the process, and ensuring compliance with the procedure.

8.4 The Complaints and Information Compliance Manager has responsibility for monitoring and evaluating the performance of the procedure. The Data Governance and Information Manager and the Complaints and Information Compliance Manager are responsible for producing feedback for senior managers; provide reports for Luton Council on complaints received and the outcome of the investigations.

## **9. PERSISTENT COMPLAINERS**

9.1 On rare occasions service users will make very regular and persistent complaints. These complaints may have already been dealt with, be repetitive or motivated by issues outside the complaints procedure. It will be necessary at an early stage of the complaint to determine whether that complaint should be deemed to be persistent and in such cases

should always be referred to the Complaints and Information Compliance Manager .

9.2 If the Complaints and Information Compliance Manager determines that a person making a complaint should be regarded as persistent they will recommend to the service that no action be taken to investigate the complaint and that the complainant will be advised about the decision and the reasons for it. This is determined by the content of complaints, frequency submitted and number of recipients to emails received and levels of contact with service. Authority to apply the Management of Unreasonable Complainant Behavior policy must be approved by the service director.

## **10. CONFIDENTIALITY**

10.1 Complaints are subject to the Council's Complaints policy which provides details on confidentiality for the management of complaints. The relevant service manager must agree any exclusion of information from the complainant or those involved with the complaint procedure. Third party information may also be withheld if consent to share this has not been provided

10.2 The Complaints team and service are responsible for ensuring compliance with the Data Protection Act 2018 (GDPR) legislation. e.g. consent to share third party information.

10.3 A copy of the complaint will be kept on the case record and appropriate archiving will apply in line with the Council's Retention policy. The complaints file will be held securely and be kept in line with the council's retention policy.

## **11. DISCIPLINARY PROCEDURES**

11.1 If at any stage a complaint reveals a possible contravention of the Disciplinary and Dismissal Procedure for Statutory Officers it must be referred immediately to the Complaint and Information Compliance Manager who will then consult with the HR Manager and other managers as required for determination as how to proceed.

11.2 The Complaints team will refer any issues that will be dealt with under the Disciplinary Code, rather than under the Corporate Complaint Procedure, to the appropriate Service Manager.

11.3 The outcome of any disciplinary action is a confidential matter between employer and employee and the Complaints and Information Compliance Manager should agree with the Service Manager what information will be referred back to the complainant.

## **12. COMPLAINTS ABOUT EDUCATION AND SCHOOL MATTERS**

12.1 If you have a complaint about a school issue there is a separate complaints procedure. Schools and governing bodies have the responsibility of dealing with all representations and issues of complaint must be directed to the Head Teacher.

12.2 The Council, cannot intervene until the school and governing body have completed

the full complaints process, and even at this stage we are only able to investigate whether the school and governing body has dealt with the complaint in accordance with the Council's Complaints process.

### **13. STAGE 1 COMPLAINTS – LOCAL RESOLUTION**

13.1 All complaints received will be logged and allocated to the service by the Complaints team. Any complaints received direct in the Children, Families and Education Directorate should be forwarded directly to the Complaints team using their feedback inbox ([Feedback@Luton.gov.uk](mailto:Feedback@Luton.gov.uk)) .

13.2 The Complaints team will acknowledge the complaint within three working days. The complainant will be issued with a reference number and advised of the due date for response.

13.3 The Stage 1 Investigating Officer will make contact with the complainant to clarify, where required, what the complaint is and, where necessary, arrange a meeting with the complainant within 5 working days of receipt of the complaint.

13.4 The complainant will be told who will be meeting with them prior to the meeting and of their right to bring an advocate/friend with them. It should also be established whether any special arrangements are required for this meeting.

13.5 The complainant will be asked what the outcome is that they are looking for.

13.6 The complainant will be told of the Council's commitment to a speedy outcome and a time scale of no longer than 15 working days from receipt of the complaint will be agreed for the investigation of the complaint.

13.7 The council will always take into consideration and pay respect to issues of age, race, religion and beliefs, language, sex, sexuality and disability during this process to ensure that an equal service is available to all.

13.8 The Stage 1 Investigating Officer will inform the complainant within 15 working days of the outcome of the investigation and ask the complainant to confirm whether it has been resolved to their satisfaction.

13.9 If the representations are considered complex the period may be extended by a maximum of 10 days ?. The Complaints team and Service Manager for relevant department within Children's Services must approve exceptions to these time scales.

13.10 Where a matter cannot be resolved, the complainant will be offered the opportunity to proceed to a Stage 2 complaint. This representation should be made in writing to the Complaints team within 28? Working days of receiving the Stage 1 response.



## **14. STAGE 2 COMPLAINTS – INDEPENDENT REVIEW**

14.1 On receipt of the Stage 2 complaint, the Complaints team will appoint an Investigating Officer, (definition below) who will then contact and meet, where required, the complainant within five working days of appointment. Where a complaint involves a child, the Complaints team will also arrange the appointment of an Independent Person (definition below).

14.3 The Investigating Officer will consider the complaint and provide their response within 25 working days.

14.4 The Adjudicating Officer will then contact the Investigating Officer, complaints team and complainant to endeavour to reach conclusions on the complaint. If there is a discrepancy/disagreement between the Investigating Officer and any Independent Person involved, the Independent Person is to be asked to attend that meeting.

14.5 The Adjudicating Officer will provide staff with copies of the part of the report(s) that relates to them together with the Investigating Officer's conclusions.

14.6 If at any stage 2 complaint reveals a possible contravention of the Disciplinary and Dismissal Procedure for Statutory Officers it must be referred immediately to the Complaint and Information Compliance Manager who will then consult with the HR Manager and other managers as required for determination as to how to proceed.

14.7 The Adjudicating Officer to write to the complainant within 25 working days with the Council's view of the complaint, including resulting actions and timescales. The 25 days will run from the date the complainant agrees the items of complaint

14.8 Where a matter cannot be resolved, the complainant will always be offered the opportunity to proceed to Stage 3 and to be considered by a review panel. This representation should be made in writing to the Customer Support Officer within 20 working days of receiving the Stage 2 response.

## **MEANING OF INVESTIGATING OFFICERS, INDEPENDENT PERSONS AND ADJUDICATING OFFICERS**

### **15. INVESTIGATING OFFICERS**

15.1 These are individuals formally appointed in Stage 2 investigations. They will not be within line management of the service complained about.

15.2 They will look at the facts, draw conclusions and recommend a way forward. The Investigating Officer will interview staff and access all files. They will need to compare practice against relevant procedures and policies of the department.

### **16. INDEPENDENT PERSONS**

16.1 An Independent Person is appointed at Stage 2 of the Children Act complaints. They are responsible for ensuring that investigations are conducted in an impartial, comprehensive and effective manner.

16.2 An Independent Person must provide an impartial view of the complaint and submit their own report. They may also make recommendations.

16.3 They must not be an officer or member of the authority nor the partner of any such person. They will be present when the Investigating Officer views files and interviews staff.

16.4 The complainant will be given a copy of the Investigating Officer's report. The Corporate Director of Children & Learning must agree any exclusion of information. Third party information may also be withheld if consent to share this has not been provided to comply with the Data Protection Act 2018 (GDPR) .

### **17. ADJUDICATING OFFICER**

17.1 The Adjudicating Officer is the appropriate Head of Service who will read the Investigating Officer's Report and the Report, if any, from the Independent Person, and decide whether he/she will adopt the decisions and recommendations contained therein. He/she will then write to the complainant with his/her decisions and reasons for the decisions.

17.2 The Adjudicating Officer is also responsible for releasing the report(s) to members of staff as appropriate.

## **18. STAGE 3 COMPLAINTS – REVIEW PANEL**

18.1 If the complainant wishes to proceed to Stage 3 and a Review Meeting a request must be received in writing detailing the reasons for the dissatisfaction with the outcome of the Stage 2 investigations. The Customer Support Officer will contact the complainant within three working days of receipt of a Stage 3 complaint.

18.2 On receipt of a request for a Stage 3 review, the Customer Support Officer will, in liaison with the appropriate Head of Service: -

- (a) Notify the Corporate Director of Children & Learning Department.
- (b) Clarify reasons for request for a Stage 3 Review.
- (c) Confirm the exact content of the complaint for consideration by the Panel.
- (d) Acknowledge the request and forward a copy to the appropriate Head of Service.
- (e) Appoint an Independent Chair Person.
- (f) Arrange a date and venue for the Review Panel to meet.
- (g) Confirm the arrangements with all parties.
- (h) Collate and distribute papers.

18.3 The Customer Support Officer will be responsible for agreeing a suitable time for the Review Panel to take place. Only in exceptional circumstances, and with agreement of the complainant, will the Panel go ahead without the complainant.

18.4 The Panel will consist of three independent people, one of whom will act as the Chair. Every attempt will be made to achieve an appropriate gender and racial balance among the Review Panel members.

18.5 Also in attendance at a Review Panel, but not members of the Panel, are the legal adviser and Customer Support Officer.

18.6 All parties attending the Panel meeting will receive copies of all papers to be considered by the Panel. The complainant, the Service Manager and the Investigating Officer, must provide any additional papers that they wish to be considered by the Panel 10 days before the date of the Review Panel.

18.7 Where papers are received after the deadline for distribution, the Panel Chair will be informed and decide if and when the papers should be received.

18.8 The complainant is entitled to bring with them one person to act as advocate and one support person of their choice. Complainants may bring with them a solicitor as their support or advocate, however they should not be acting in a formal legal capacity.

## 19. THE MEETING

19.1 The meeting should take place within 30 working days of the Stage 3 request being received.

19.2 The main purpose of the Review Panel is to consider the process by which the complaint has been dealt with at Stage 2 of the Complaints Procedure. The Panel are not re-investigating the complaint and therefore only in exceptional circumstances should any members of staff named in a complaint attend a Review Panel hearing. The decision about the appropriateness of a member of staff attending a Review Panel hearing will be made by the Panel Chair.

19.3 The complainant may request a transcribed copy of the Minutes of the Review Panel. These are confidential and copies should not be made.

19.4 The Chair Person manages the process of the Review Panel meeting according to the standard agenda.

19.5 The Customer Support Officer and the legal advisor, when present, may intervene in the Panel process if they feel that the views of either party are not being heard. This must be done through the Chair.

19.6 The Chair may adjourn the meeting at any time.

19.7 The Customer Support Officer is not present as an advocate for the complainant or the department.

19.8 If the complainant is unable to attend the Review Panel meeting, the Panel will only consider the complaint if there has been agreement in writing from the complainant that s/he will not be attending and that s/he agrees that any outcome of the Panel will not be contested.

19.9 Having heard the views of the complainant, his or her representative, Adjudicating Officer, Investigating Officer and the Independent Person, the Chair will ask all parties to withdraw whilst the Review Panel consult to consider the complaint and make representations.

19.10 The Review Panel may only make **recommendations** in respect of the **complaint**.

19.11 The Review Panel may also make **comments or suggestions** concerning other matters arising from the complaint.

19.12 The Review Panel is to make recommendations within a period of five working days.

19.13 Where the Panel members do not feel they have enough information to conclude their review and make fair and just recommendations, they may adjourn the meeting until such time as additional information that they consider necessary to reach a conclusion is

made available to them. The Panel must agree the form and content of its conclusion and recommendations, taking advice on the form of wording from the legal advisor.

## **20. POST MEETING ACTIONS**

20.1 The Customer Support Officer will ensure that the complainant is informed of the Review Panel recommendations within 5 working days and will be told that those recommendations are being put to the Director for approval.

20.2 The Customer Support Officer will distribute a written copy of the Review Panel recommendations to all parties attending the Review Panel meeting and to the Director within 5 working days.

20.3 The Director will also receive copies of the papers that were presented to the Panel.

20.4 The Director and the Independent Person (appointed at Stage 2) must consider the recommendations and determine how the authority will respond to them, and what they propose to do in light of them.

20.5 Where the Director is in agreement with the recommendations of the Review Panel, he will inform the Customer Support Officer within 15 working days, who will then record this agreement and distribute it to all interested parties.

20.6 Where the Director is not in agreement with the recommendations of the Panel, he will, within 20 working days, meet the Review Panel Chair. The Customer Support Officer will inform the complainant and will also attend the meeting.

20.7 Where the Director wishes to negotiate a reasonable response to the Review Panel recommendations and suggestions, e.g. where he is able to agree to the essence of a recommendation but may find the precise wording unacceptable. In these circumstances, the Chair may negotiate directly with the Director on behalf of the Review Panel or may wish to consult with his/her fellow Panel members. This consultation process is to be undertaken within 20 working days.

20.8 Where the Director is unable to agree the Review Panel recommendations, he should write to the complainant outlining his reasons for not following the recommendations.

20.9 The Director should in the letter of response, inform the complainant of his/her right to contact the Ombudsman or to seek advice should s/he remain dissatisfied.

20.10 Where actions are required following on from the Panel, the appropriate Head of Service will be responsible for ensuring that these take place.

## **SUMMARY OF COMPLAINT STAGES**

### **STAGE ONE – LOCAL RESOLUTION**

Acknowledged by Complaints Team within 3 working days  
Passed to Stage One Investigating Officer

Investigator has 5 working days to clarify complaint and desired outcome with complainant

Investigator has 10 working days (after the day of clarification) to respond to the Complainant

Complainant has 20 working days to request escalation to Stage Two

### **STAGE TWO – INDEPENDENT REVIEW**

Acknowledged by Complaints Team within 3 working days  
Passed to Investigating Officer

IO has 5 working days to clarify complaint and desired outcome with complainant

IO has 20 working days (after the day of clarification) to respond to the Complainant

Adjudicating Officer to write to complainant within 25 working days

Complainant has 20 working days to request escalation to Stage Three

### **STAGE THREE – REVIEW PANEL**

Acknowledged by Complaints Team within 3 working days

Review Panel to take place within 30 working days

Panel consists of:

Independent Chair

2 Independent people

Investigating Officer from S2

Independent Person from S2

Adjudicating Officer

Panel Advisor (from Legal Dept)

Complaints Officer

Note Taker

Complainant (plus support/advocate)

Chair has 5 working days (after panel) to provide recommendations

Director, in agreement with panel, has 15 days to respond to CSO, who to distributes response

Director, not in agreement with panel, has 20 days to respond to CSO

Head of Service responsible to completing actions recommended by the Panel

Complainant has to be advised of right to complain to LGO.