

CHILDREN AND YOUNG PEOPLE'S COMPLAINTS POLICY AND PROCEDURE

1.0 Introduction

1.1 Children and Young People's Services are committed to the effective implementation of complaints and compliments procedures as an important element in providing and assuring high quality services. The complaints system is valued as it:

- Gives service users an opportunity to make their views known and ensures their inclusion in service development
- Identifies ways of improving services through positive feedback or by addressing areas of concern
- Provides valuable information to enable the directorate to plan and review the services it provides in St Helens.

1.2 The aim of the complaints system is to resolve problems quickly, as near as possible to the point they arise and by the members of staff closest to the difficulty. Concerns can often be resolved easily and quickly, without becoming formal complaints, if the service user senses a willingness to listen and help.

What May Be Complained About

1.3 A complaint may arise as a result of many things relating to statutory children's services for example:

- An unwelcome or disputed decision
- Concern about the quality or appropriateness of a service
- Delay in decision-making or the provision of services
- Delivery or non-delivery of services
- Quantity, frequency, or change of service
- Attitude or behaviour of staff
- Application of eligibility and assessment criteria
- The impact on a child or young person of the application of Council policy
- The outcome of assessment, care management and review
- Decision by the Council to initiate legal proceedings in respect of the child
- Social work reports produced within the proceedings
- Effect of the care order and the Council's actions and decisions where a care order is made
- Issues relating to parental contact with children in care
- How social work staff perform their duties
- Decisions relating to the removal and return of children
- Decisions in relation to adoption or adoption support services
- Decisions in relation to special guardianship and support services.

Who may make complaints

1.4 The following people are entitled to access the complaints procedure:

- Any child or young person who is being looked after by the local authority or is a child in need;
- A parent, or someone who has parental responsibility, of a looked after child or child in need;
- Any local authority foster carer (including those caring for children placed through independent fostering agencies);
- An Eligible Young Person, Relevant Young Person, Former Relevant Young Person or Qualifying Young Person (under Leaving Care Procedures);
- A person aged up to 24 who is or was a Former Relevant Young Person or qualified for advice and assistance under the Leaving Care procedures and whom the local authority may still assist in connection with education and training;
- Special Guardians;
- A child or young person (or parent of his) for whom a Special Guardianship Order is in force;
- Any person who has applied for an assessment for special guardianship support;
- Any child or young person who may be adopted, their parents and 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; 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 e.g. elected members, MPs etc.

What is exempt from the Complaints Procedure

1.5 The complaint procedure does **not** apply when

- The person wishing to make a complaint does not meet the requirements of 1.4
- The complaint is not in regard of the actions or decisions of the local authority or a body acting on their behalf
- The same complaint has already been dealt with at all three stages
- The complaint is made more than one year after the grounds to make representation arose although the time limit can be extended at the local authority's discretion if:
 - It would have been unreasonable to expect the complainant to make the complaint earlier based on the child or young person's lack of confidence in bringing the complaint forward within the year limit
 - There are genuine issues of vulnerability
 - The local authority believes there is still benefit to the complainant in proceeding
 - There is likely to be sufficient access to information or individuals

involved at the time to enable an effective and fair investigations to be carried out

- Action should be taken in view of human rights-based information.

PRACTICE GUIDANCE

Sometimes a complaint crosses over boundaries between Children and Young Peoples Services and other Agencies. Where this happens children and young people should not have to worry about who they approach with complaints about different aspects of the service they receive. The complaint can be made in its entirety to any one of the bodies involved. Children and Young Peoples Services will then work with other agencies to establish which agency will lead on handling the complaint and to ensure that the complainant is kept informed and receives as comprehensive a reply as possible.

- 1.6 The Local Authority has the discretion in deciding whether to consider complaints where to do so would prejudice any of the following concurrent investigations:
- Court proceeding;
 - Tribunals;
 - Disciplinary proceedings; or
 - Criminal proceedings.

- 1.7 If the Local Authority decides not to consider or further consider a complaint subject to these concurrent investigations, the Complaints Manager must write to the Child/Young Person/Service User explaining the reason for their decision.

- 1.8 Once the concurrent investigation has been concluded the complaint may be resubmitted as long as it is within one year of the conclusion of the concurrent investigation.

Complaints Made on Behalf of a Child

- 1.9 Where a complaint is made on behalf of a child or young person the local authority should normally confirm, where possible, that the child or young person is happy for this to happen and that the complaint submitted reflects their views.

- 1.10 The local authority has the discretion to decide whether or not the representative is suitable to act on behalf of the child or has sufficient interest in the child's welfare. If the Complaints Manager considers, following consultation with the relevant operational managers, that the representative does not have sufficient interest, the Complaints Manager will notify the representative, in writing, that no further action will be taken.

Complaints relating to a child

- 1.11 Where the local authority receives a complaint made by an adult relating to a child or young person but not made on the child's behalf, the local authority has discretion to decide, in cases where eligibility is not automatic, whether or not an individual has sufficient interest in the child's welfare to justify the complaint being considered. The local authority may consult with the child or young person in making this decision.

Independent Sector Provision

- 1.12 Service users for whom the Directorate directly purchases a service from an independent sector provider have a right to access this procedure in the same way as people receiving a service directly from the Directorate. All independent sector providers are expected to have a complaints procedure which is compatible with the Council's procedure. Where a service user does not wish the independent provider to investigate the complaint, the matter may be dealt with by a manager from the Directorate at Stage 1.
- 1.13 However a Stage 2 investigation will be undertaken by the Council for all serious and complex cases and those which the independent provider has not been able to resolve at the equivalent of Stage 1. Following this stage, service users will have the same right to request a Stage 3 Complaints Review Panel as someone in receipt of an in-house service.
- 1.14 The Complaints Manager will notify the Contracting and Commissioning Section of all complaints relating to the independent sector, with copies of documentation.

2.0 Significant Harm Concerns

- 2.1 Upon receiving a complaint, the social worker must first consider whether the nature of the complaint appears to constitute significant harm or is an allegation against an adult staff member or volunteer.
- 2.2 If the complaint appears to constitute significant harm, the social worker should consult the Team Manager who will decide on the actions to be taken in response to the complaint which may include implementation of safeguarding procedures.
- 2.3 If the complaint is an allegation about an adult who works with children then this must be referred within one working day to the Local Authority Designated Officer.
- 2.4 If the Complainant is a child / young person they are entitled to have the support of an advocate.

3.0 Complaints from Other Agencies

- 3.1 If a complaint is received from another agency about the worker's management of a case, the manager will read and review the case record, meet and speak with the Child/Young Person/Service User, and record the outcome of the discussion on ICS.
- 3.2 If the issues are not resolved through this process the Child/Young Person/Service User should be asked if they want to register a formal complaint.

4.0 Complaints about Senior Officers and Members

- 4.1 Complaints about the actions or personal conduct of officers at Service Manager and above will be dealt with by the Director. Complaints concerning the Director will be referred to the Chief Executive. Complaints concerning the

conduct of the Elected Mayor or Elected Members are outside the scope of the procedure and are investigated by the Standards Board for England.

- 4.2 Complaints relating to schools fall within statutory procedures and should be made to the Head Teacher who will process these in accordance with the school's own complaints procedure. If the Child/Young Person/Service User remains unhappy with the outcome, the complaint can be referred to the school's Governing Body.

5.0 Anonymous Complaints

- 5.1 It is recognised that anonymous complaints have a potentially important role in bringing serious matters to the attention of the Directorate. However, the ability of the Directorate to investigate and deal with such complaints will be limited to addressing policy or general service issues.
- 5.2 For this reason staff should encourage child/young person/service users to identify themselves and provide as much relevant information as possible. This should include details of any incidents, details of those involved, addresses, dates and times. If the caller declines to identify themselves, they should be encouraged to leave a telephone number in order that they may be informed of any action taken by the Complaints Manager.

6.0 Informal Complaints

- 6.1 There will be a range of everyday concerns highlighted by service users where staff can identify and resolve those issues immediately. The vast majority of concerns can be dealt with informally as this is the most effective way of dealing with complaints speedily and to the satisfaction of the service user.
- 6.2 Where it is not possible to deal with the concern in this way the matter must be recorded as a complaint and initially dealt with under the informal first stage of the procedure. Any member of staff who receives a complaint must inform the Complaints Manager so that it can be logged immediately on the Complaints database.

7.0 Receiving a Complaint

- 7.1 A complaint can be registered verbally by phone or face to face; by audio tape; or writing by letter, e-mail, fax, or text message. A complaint is dated from the day it is first received by the Complaints Manager.
- 7.2 Where possible a Children's complaint form should be completed and passed, as soon as is practicable, to the Complaints Manager who will write to the complainant to acknowledge the complaint.
- 7.3 The Complaints Manager will consider what the service user is saying and will identify their desired outcome. An initial acknowledgment to the complaint should be made within two working days of receipt of the complaint by the Complaints Manager.
- 7.4 The child should be provided with information about the complaints process, how complaints will be dealt with and be kept informed about the progress of any complaint registered by them or concerning them. There is a specific Children's Complaints Information Leaflet that should be used.

8.0 Withdrawal

8.1 A complaint may be withdrawn at any time by or on behalf of the service user. The complaints procedure will not then be pursued. However, the complaint may have raised issues about policy and practice that will still need addressing. Written confirmation must be sent to the child/young person/service user regarding their request for withdrawal.

9.0 Staff Issues

9.1 The line manager should inform any member of staff directly concerned of the substance of a complaint against the worker and obtain their initial comments. The staff members directly concerned must be kept informed of the progress of the complaint.

9.2 Staff must be reminded that they may access the services of the Staff Care Counsellors and/or their union representative for advice, support and representation.

9.3 If it is clear at any stage that the complaint raises issues of a criminal or disciplinary nature this must be notified immediately to the Complaints Manager. The Complaints Manager will inform the Director of Children and Young People's Targeted Services who will liaise with the relevant manager to take any necessary action and if appropriate liaise with the Police.

10.0 Stages and Timescales

10.1 There are three stages to a complaint:

- Stage 1 - Local Resolution
- Stage 2 - Investigation
- Stage 3 - Review Panel

10.2 Service users have the right to move at any time to formal stage 2 of this procedure and/or pursue alternative solutions. In the case of a serious complaint, the complaint must be immediately referred to the Complaints Manager who will inform the relevant Assistant Director. The Complaints Manager will also arrange for a Stage 2 investigation to take place.

10.3 The specified timescales applying to each stage of the complaints procedure are:

- Stage 1 - 10 working days (which may be extended to 20)
- Stage 2 - 25 working days (which may be extended to 65)
- Stage 3 - Maximum of 72 days

10.4 In some cases, delays in dealing with the complaint are caused by the child/young person/service user. The staff member dealing with the complaint should give them every opportunity to take whatever action is needed to progress the complaint. Usually one written request/reminder will suffice but if a second written request/reminder does not produce the desired outcome, the child/young person/service user should be informed that the processing of the complaint will proceed on a limited basis according to the information already available. Advice must always be sought from the Complaints Manager

10.5 The complainant should be made aware that they may approach the Local Government Ombudsman at any time during the complaint process.

11.0 Complaints Stages

11.1 Stage 1 Informal - Local Resolution

- A copy of the complaint should be sent to the Complaints Manager who will acknowledge the complaint in writing within 2 working days. The official paperwork will then be forwarded to the relevant Assistant Director to arrange for investigation of the complaint.
- Some complaints may be of sufficient seriousness or complexity to move directly to Stage 2. This decision would be made jointly by the child/young person/service user and the Complaints Manager in consultation with the Assistant Director.
- It is the responsibility of the Service Manager to ensure that a response is given to the complainant and to send details of the response to the Complaints Manager to update the database.
- The child/young person/service user should receive a response to their complaint within 10 working days. The person dealing with their complaint may in that time meet with the child/young person/service user or other people involved with them. A child/young person must be informed of their right to an Advocate.
- An extension of a further 10 working days is allowed should the representation be “complex” or where there are specified reasons for the delay. Where a response has not been made within the initial 10 day time limit the Complaints Manager should inform the complainant of the reasons for the delay and if the complainant is happy to continue with the process should agree an extension of the time limit.
- Where a response has not been made within 20 working days from its receipt the complaint should be moved forward to Stage 2 of the process.
- Any child/young person/service user not satisfied with the response at Stage 1 of the Complaints Procedure may request the complaint proceeds to a Stage 2 Investigation.

11.2 Stage 2 - Investigation

- If the complaint is not resolved at Stage 1 and the child/young person/service user or any other person indicates in writing within 20 working days of receipt of the department’s response at Stage 1 that they wish to take the complaint further an investigator will be appointed to investigate the complaint. This can be an Independent Officer who does not work for the Local Authority or who is employed by the Local Authority. However they should not be in direct line management of the service or person whom the complaint is directed at.

- For all child/young person complaints an Independent Person must also be appointed to oversee the complaint. This person is in addition to the Independent Officer and should be involved in all aspects of the investigation.
- The written complaint must be sent within one working day of receipt to the Complaints Manager and Assistant Director. The Complaints Manager will acknowledge the complaint within 2 working days of receipt and will either in writing or by meeting with the complainant agree the details of the complaint and the desired outcome.
- The Complaints Manager will consider if requested to do so by the service user, whether to postpone or stop decisions which are complained of. This will only happen in exceptional cases, and in consultation with the Assistant Director.
- The Investigating Officer will contact the service user within 2 days of their appointment to establish communication and identify and agree how the matter is to be investigated.

PRACTICE GUIDANCE

Service issues warranting urgent attention should be referred by the Investigating Officer via the Complaints Manager to senior operational management.

- The Investigating Officer must prepare a report on the investigation. They should make recommendations as to what action, if any, should be taken, and provide this to the relevant Assistant Director (the Adjudicating Officer) and the Complaints Manager within 25 working days.
- Where it is impossible to complete the investigation within the timescale, Stage 2 may be extended to a maximum of 65 working days. The extension must be agreed with the Complaints Manager and an explanation and notification of expected report date must then be sent to the complainant by the Complaints Manager. If the Council cannot meet the 65-day timescale the Child/Young Person/Service User has the right to ask for the complaint to progress to Stage 3.
- Individual staff members directly concerned in the complaint will see the Investigating Officer's or any other report and notes of interview and have an opportunity to comment so that their views may be taken into account by the person considering the report.

PRACTICE GUIDANCE

Confidential information relating to, or reports from third parties must not be given to service users or their representatives.

- A response to the complaint - **the adjudication** - must be made by the Adjudicating Officer within 25 working days. The Investigating Officer's Report, the Independent Person's Report and the adjudication should be sent by the Complaints Manager to:
 - ✓ the person making the complaint;
 - ✓ the person on whose behalf the complaint was made, unless it is considered that they are not of sufficient understanding or it would

cause unnecessary distress or serious harm to their health or emotional condition;

- ✓ the Independent Person; and
- ✓ any other person with sufficient interest in the case.

- The Complaints Manager should monitor the implementation of the recommendations contained within the Assistant Director's response and report to the Director, on a regular basis, what action has been taken. The service user may inform the local authority within 20 working days of receiving the written response that they are dissatisfied with the outcome and wish to refer the matter to a Stage 3 Review Panel.

11.3 Stage 3 - Review

- If a review is requested, a panel of 3 independent persons must meet to re-examine the adjudication within 30 working days of the request being received. The independent people must be neither a Member nor an Officer of the Local Authority, nor a spouse or civil partner of such a person.
- The venue of the Panel will be arranged to be convenient for the service user.
- The Panel will be attended by:
 - ✓ The Child/Young Person/Service User and/or their representative;
 - ✓ The investigating officer;
 - ✓ The independent person;
 - ✓ The adjudicating officer; and
 - ✓ The Complaints Manager.

PRACTICE GUIDANCE

The Review Panel should not reinvestigate the complaints, or consider any substantively new complaints that have not been first considered at Stage 2.

- Papers will be circulated to Panel members, the service user, his/her representative and officers 10 working days before the Panel meets. These will include:
 - ✓ The letters(s) of complaint
 - ✓ The Investigation Officer's and Independent Person's reports
 - ✓ The letter of response and action plan.

The Complaints Manager will liaise with the service user and officers to identify and prepare any other relevant and necessary documents.

- The conduct of the Review Panel will be as informal as possible:
 - ✓ The service user and/or representative will be invited into the room to be introduced to the Panel members in advance of the Officers.
 - ✓ The Chairperson will introduce the Panel members, invite the service user to introduce their representative or supporter and the Officers of the Department will introduce themselves.
 - ✓ The service user and their representative will present their position stating at this point their issues of concern and any desired outcomes.
 - ✓ The Senior Officer will present the Directorate's position.

- ✓ Questions may be asked by anyone at any time.
 - ✓ Both sides will summarise their position having heard all the information and discussions.
 - ✓ The Chairperson will then close the meeting.
- The Panel will produce a report about whether the Directorate dealt adequately with the complaint within 5 working days of the meeting. The Complaints Manager will send the report to:
 - ✓ The person making the complaint;
 - ✓ The person on whose behalf the complaint was made, unless it is considered that they are not of sufficient understanding or it would cause unnecessary distress or serious harm to their health or emotional condition;
 - ✓ The Independent Person;
 - ✓ Any other person with sufficient interest in the case;
 - ✓ The Assistant Director.
 - If the Panel decides that the Directorate did not adequately deal with the complaint the Assistant Director must, within 15 working days of the notification of the Panel's decision, notify the complainant what, if any, action they propose to take and provide guidance to the complainant as to the power of the Local Government Ombudsman.

12.0 Redress and Solutions

12.1 A decision regarding redress can be made at any point during the consideration of a complaint. Where the authority is clearly at fault then the sooner redress is made the more likelihood there is of the service user being satisfied with the outcome. Ideally any obvious fault should be recognised and redress made at Stage 1 of the complaints procedure. The aim should be to put the service user in the position which they would have been had the events which resulted in the complaint not occurred. If this is not possible then consideration must be given to what has been the effect of the Directorate's actions on the service user and how this can be resolved.

12.2 When considering redress or remedy consideration should be given to the following:

- Does the local authority have the legal power to carry out the redress/remedy?
- What does the law require the local authority to do and have the local authority's legal obligations been fulfilled?
- Does the local authority have discretion and has it done what its own policy requires or established practice indicates?

12.3 Decisions should result not only in providing redress for the service user but also preventing recurrence of the problem. Many service users wish to be assured that "this could not happen again" and this is as important to them as any personal redress.

12.4 The following are examples of redress that might be appropriate:

- Apology;
- Reassessment of needs;
- Provision or restoration of service;

- Change of procedure(s) to prevent recurrence;
- Payment for specific material or financial loss.

13.0 Other Representations

Compliments

- 13.1 The Council also wish to hear compliments from children, young people, their parents / carers about the services provided. Again children and young people are entitled to have an advocate help them.

Whistleblowing

- 13.2 Where any member of staff has serious concerns about the professional child care practice of others, the Corporate Confidential Reporting Procedure of St Helens Council should be followed. Serious concerns are defined as:

- Breach of professional code of conduct
- Suspected breach of the law
- Suspected breach of City Council policy
- Fraud or corruption; e.g. alteration of time sheets
- Danger to health and safety
- Abuse (either of a position of trust or of a vulnerable person)
- Improper conduct
- Cover up of any of these.

- 13.3 Concerns should be reported to the worker's immediate line manager if this is appropriate. If this is not possible concerns should be raised with the Manager's Manager, another Senior Manager or a person outside the Directorate specified in the procedure.

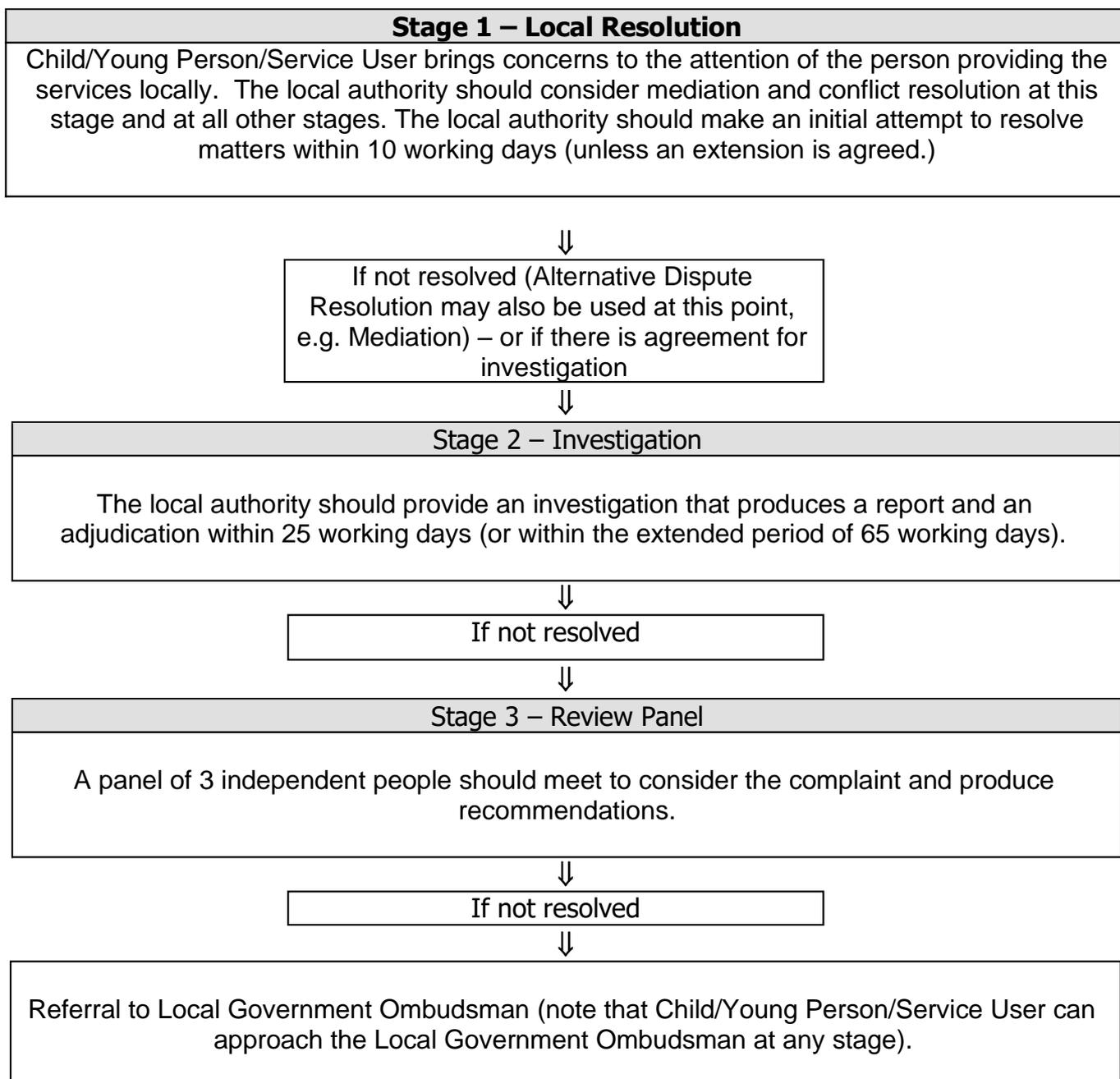
- 13.4 Initial enquiries will usually be made to decide how to deal with any concerns raised. All serious concerns will be investigated quickly using the most appropriate procedure. Investigations might be undertaken by internal management or the Internal Audit Service. In some cases the matter will need to be referred to the police or for an independent inquiry.

14.0 Monitoring and Review

- 14.1 A general monitoring and review report dealing with statistics and operation of the procedure will be provided to the Children and Young People's Services social care management team and form part of the quarterly report on performance. An Annual Report will be provided by the Complaints Manager to the Director of Children and Young People's Services and will be published on the Internet to be available to the general public.

- 14.2 Where a complaint has been investigated reviews should be undertaken of outcomes and action plans arising from individual cases. The Complaints Manager will request a report on issues relating to service users, general matters and on staff care issues on a six monthly basis from the appropriate line managers.

THE PROCEDURE FOR CHILDREN ACT 1989 STATUTORY SOCIAL CARE COMPLAINTS



Note: The Complaints Manager must be involved and aware of the progress of the complaint at all stages of the process.

Version	Author/Reviewer	Date	Review Date
1	Ian Blythin	Sep 2014	Sep 2015
2			