

# CHILDREN AND YOUNG PEOPLE'S STATUTORY COMPLAINTS POLICY AND PROCEDURE



## 1.0 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 the scope of the definitions in section 5 of this policy. Complaints which are not mentioned in Section 5, including those about Public Health and other services for children and young people, are covered by the Council's Corporate Complaints policy.

## 2.0 Background

- 2.1 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.

## 3.0 Aims

- 3.1 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 a prompt response that demonstrates a willingness to listen and help.
- 3.2 The aims of this policy are:
  - To ensure that 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 to improve 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.

## **4.0 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 No1738 – 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 2020
  - Human Rights Act 1998

## **5.0 Definitions**

- 5.1 The Council's definition of a child is a young person aged under 18 and under 19 if a child with a diagnosed disability.
- 5.2 A statutory social care complaint is set out in law and is anything which relates to the social care services that the council provides.
- 5.3 Complaints falling outside of this description are dealt with under the Corporate Complaints Procedure.

## **6.0 Managing statutory Social Care Complaints**

- 6.1 Where possible, complaints should be resolved quickly and informally. Informal resolution is far more efficient and leads to a faster conclusion, as well as ensuring more efficient use of staff resources.
- 6.2 Where informal resolution is not possible, consideration must be given as to whether this policy applies, or whether the complaint should be dealt with under a different process.
- 6.3 Statutory Children's Complaints follow a multi-stage process which ensures formal complaints are investigated thoroughly and complainants have a right to appeal.
- 6.4 Complaints which fall into the definitions outlined in Section 5 of this policy may follow the process below:
- Stage 1 – Local Resolution
  - Stage 2 – Appeal/Investigation
  - Review Panel
- 6.5 Following completion of this process, the complainant may refer to the Local Government Ombudsman if he/she is not satisfied with the outcome of the complaint. Usually, all stages of the local authority's complaint's procedure must be completed before the Ombudsman will look at any complaint.

- 6.6 Once accepted at Stage 1, all children's complaints will normally have a right to proceed to Stages 2 and 3.
- 6.7 The Complaints Team are responsible for facilitating the complaints process. For help with this policy or process please contact [childrenscomplaints@sthelens.gov.uk](mailto:childrenscomplaints@sthelens.gov.uk).

## **7.0 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 safeguarding implications, both to the child at the centre of the concerns and to other vulnerable children and young people who are potentially at risk in relation to the concerns.
- 7.2 Safeguarding investigations will take precedence over the investigation of any complaint. Harm may cover, but is not limited to:
- Physical
  - Sexual
  - Psychological
  - Financial
  - Neglect
  - Emotional
  - Verbal
- 7.3 Harm can be caused by an act or omission and can be passive or active in nature. Where there are any indications of safeguarding implications on receipt of a complaint, the complaint may be put on hold pending the outcome of any safeguarding investigations. Confirmation will be provided either by letter or email to the complainant that the concerns are being investigated by the relevant social care team.

## **8.0 Who can complain?**

- 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 24D of the Children Act 1989 and Section 3(1) of the Adoption and Children Act 2002 requires the responsible authority to consider representations by individuals specified therein.
- 8.3 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 25 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.

## **9.0 Who is Exempt from the Policy and Procedure?**

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

- The person wishing to complain does not meet the requirements in section 8.
- Where the same complaint has already been dealt with at all stages of this procedure.
- The complaint is unclear or vexatious.
- The complaint should be dealt with under other proceedings such as:
  - Disciplinary proceedings,
  - Grievance procedure,
  - Council's Corporate Complaints Policy,
  - Services for which alternative statutory appeals process already exists,
  - Court Proceedings,
  - Criminal proceedings,
  - Other HR policies.

9.2 The Council has a wide 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.

## **10.0 Complaints made on behalf of a child**

10.1 Where a complaint is made by an adult on behalf of a child or young person aged 11 or above, the local authority will usually confirm, where possible, that the child or young

person agrees with the complaint being made on their behalf and that the complaint reflects their views.

- 10.2 If the young person is not in agreement with the adult making a complaint, the Complaints Team will inform the adult that their complaint will not be considered and why. The young person will be given information about how to complain and encouraged to make their own complaint if they are dissatisfied.

### **11.0 Complaints made by an adult which relate to a child or young person**

- 11.1 Where the complaint is made by an adult who has their right to have their complaint considered, the Complaints Team will seek to ascertain that any competent young person aged 11 years or over agrees with the adult making a complaint and give their consent for their personal information to be accessed and shared via the investigation process. If a competent young person does not want their personal information to be accessed and/or shared the Complaints Team will inform the adult as to which parts of their complaint cannot be investigated fully and why.

### **12.0 Anonymous complaints**

- 12.1 Anonymous complaints cannot be considered within the Children and Young People Complaints procedures. However, it is recognised that anonymous complaints have a potentially important role in bringing serious matters to the attention of the Directorate. Dependent upon the nature of the complaint, the Children's Complaints Manager and/or Corporate Assistant Director will decide what action, if any, should be taken, and whether any other policies, e.g., whistleblowing policy, should be applied.

### **13.0 What can be complained about**

- 13.1 All functions of the Local Authority under Part 3 of the Children Act 1989 may form the subject of a complaint. A complaint may arise as a result of many things relating to statutory children's services for example:

- Quality or appropriateness of a service
- Delay in decision-making or the provision of services
- Non-delivery of services
- Quantity, frequency, change or cost of a service
- Attitude or behaviour of staff\*
- Application of eligibility and assessment criteria
- Assessment, care management and review

\*Where a complaint is received regarding the attitude or behaviour of staff the Complaints Manager/Officer will liaise with the relevant Departmental senior manager to decide whether the complaint is to be investigated under the Complaints Procedure or capability/disciplinary procedures and will inform the complainant.

- 13.2 In addition, the Regulations provide that the following functions may be the subject of a complaint:

- Matters relating to Care Orders and Supervision Orders
- Matters relating to Child Assessment Order
- Matters in relation to Emergency Protection Orders
- Certain Adoption related functions (from the Adoption Support Regulations 2005 and some section of the Adoption and Children Act 2002)
- Certain aspects of Special Guardianship Support Services (Regulations 2005)

13.3 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.

13.4 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 complainant explaining the reason for their decision.

13.5 Once the concurrent investigation has been concluded the complaint may be resubmitted if it is within one year of the conclusion of the concurrent investigation.

#### **14.0 Time limit for making complaints**

14.1 In order for a complaint to be accepted under this policy, the complaint must be made no later than:

- Twelve months after the incident giving rise to the complaint occurred, or
- Twelve months after the complainant realised, they had reason to complain.

14.2 If a complaint is made outside of these time limits, the department may decide to accept the complaint if the complainant had good reasons for not doing so within the stipulated period, and it is still possible to investigate effectively and efficiently. Each instance will be considered on its own merit and a decision will be made by the Assistant Director of Policy, Change and Reform.

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

Complaints should be submitted in writing to :

By email to: [childrenscomplaints@sthelens.gov.uk](mailto:childrenscomplaints@sthelens.gov.uk)

#### **16.0 Complaints about children's homes**

16.1 Complaints made by children or young people or their representative about the service they have received in a children's home operated by St Helens Council will be dealt with under this policy.

- 16.2 Complaints from members of the public, or from those not listed above, about children's homes run by St Helens Council will be dealt with under the Corporate Complaints procedure.
- 16.3 Complaints about children's homes run by other organisations and commissioned by St Helens Council must be made to the organisation concerned. However, as part of their contract, organisations must make St Helens Council aware of all complaints received so that quality assurance processes can be followed, and any learning and improvement can be monitored.

## **17.0 Collective Complaints**

- 17.1 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, these can be treated as one complaint.

## **18.0 Complaints made about both Health and Social Care**

- 18.1 When a complaint is made about both health and social care we will liaise with our partners in health and agree who will take lead responsibility for responding to the complaint(s). This will ensure the complainant will receive a joint response to their complaint(s).

## **19.0 Complaints by Foster Carers**

- 19.1 Local Authority foster carers are eligible to make representations and complaints on behalf of children and young people under this procedure, in accordance with S26(3) and s24(d) of the Children Act 1989 and s3(1) of the Adoption and Children Act 2002, regulation 12 of the Children Act 1989 and Representations Procedure (England) Regulations 2006.

## **20.0 Independent Social Care Providers**

- 20.1 Independent Social Care providers are expected to have their own complaints procedures. Complaints about their services should be directed to the organisation providing the care. As part of commissioning arrangements, St Helens Council will ensure that the provider has an appropriate complaints procedure in place.
- 20.2 The provider should send to St Helens Council a copy of any complaint and responses in relation to any individual who receives a directly commissioned council service.
- 20.3 There are a number of instances where an exception would be made to this, such as:
- When the complainant has already complained to the provider and is not satisfied by the response,
  - When the complaints manager considers it to be a matter that relates more directly to the exercise of the local authority's functions,
  - 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 it will be brought to the attention of the head of Contracts and Commissioning who will co-ordinate a response to the concerns raised,

- When the complaint has safeguarding implications, consideration should be given to other relevant safeguarding policies. If appropriate, consideration should be given at the initial receipt of information as to whether there is any possibility of the independent social care provider, by their responsible person or employees, being directly involved or complicit in any issues giving rise to safeguarding concerns.

20.4 When complaints are received by the Council about an independent provider, the complaint will be passed to the provider to investigate and respond to. A copy will also be provided to the Contracts and Commissioning team.

20.5 Independent providers, as part of their contract, must inform St Helens Council of any complaints so that responses, learning and improvement can be monitored.

## 21.0 Complaints in Relation to Court Proceedings

21.1 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

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

21.2 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.

21.3 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.

21.4 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.



21.5 If the complaint is resolved before court proceedings are concluded, the relevant Manager must consider whether the outcome has a bearing on the court proceedings and advise the court as necessary.

## **22.0 Confidentiality and Consent**

22.1 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 except for becoming aware of a safeguarding concern. In the event it is necessary to share information with a third party to investigate any complaint properly, the service user will be informed accordingly.

22.2 For complaints made by an adult acting on behalf of a child or young person, 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".

22.3 For complaints made by a third party about the service received by a child, due regard must be given as to whether they have sufficient understanding and intelligence to enable them to understand fully what is proposed and can express their own wishes.

## **23.0 Advocacy and Support**

23.1 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.

23.2 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.

## **24.0 Monitoring effectiveness of the Complaint Procedure**

24.1 The Council will monitor the operation and effectiveness of this complaint's procedure as well as how information about complaints is being used to improve services and delivery. There will be effective quality assurance systems in place which will include a cycle of planning with outcomes fed back into operational delivery. This will include effective systems to provide:

- the dissemination of learning from complaints to line managers.
- the use of the complaint's procedure as a measure of performance and means of quality control.
- information derived from complaints to contribute to practice development, commissioning, and service planning.

24.2 Monitoring will highlight how effective communication is within the authority and to the children and young people receiving their services, where staff training is required and whether resources are targeted appropriately. This will be fed back into the system to facilitate and improve policy and practice.

## **25.0 Diversity monitoring**

- 25.1 The Council will, where appropriate, ask complainants to define their own ethnic origin, gender, any disability, and age. This will be used to:
- gain an accurate picture of complaint policy use by ethnic origin, age, gender, sexual orientation, and disability.
  - identify where take-up or use could be improved or reviewed.
  - Provide a baseline for planning, target-setting and measuring change.
  - Provide assurance that the procedure is accessible equally to all sections of the community.
  - identify whether any distinct needs exist amongst members of minority groups, for which special provision may be necessary; and provide assurance that it does not disadvantage or inadvertently discriminate against any protected group.

## **26.0 Reasonable Adjustments**

- 26.1 The Council is committed to taking action to ensure that the way we work does not place people with disabilities at a disadvantage. It is important to remove the barriers some complainants have in making complaints.
- 26.2 The Council has a legal duty to consider making reasonable 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.
- 26.3 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.
- 26.4 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".
- 26.6 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.
- 26.7 We will do our best accommodate requests even if you don't have a disability as defined by the Equality Act 2010.

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

- 26.9 Reasonable adjustments are not defined by the Act, but there is a Code of Practice which

gives guidance as to the kind of adjustments that could be made.

26.10 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

### **26.11 Asking for reasonable adjustments**

26.12 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.

26.13 We will also suggest new or additional adjustments if we feel it might help you continue to make the best use of our service.

### **26.14 Our response to requests**

26.15 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

26.17 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.

26.18 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”.

26.19 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.

## **27.0 Withdrawal of Complaints**

- 27.1 Complaints may be withdrawn orally or in writing at any time. The Complaints Team must be informed immediately if this happens. The Complaints Team will then contact the person making the complaint confirming their decision.
- 27.2 The Complaints Team, Manager, and/or Assistant Director may review the issue of concern and consider whether further investigation is required through other internal management systems.

## **28.0 Unreasonable and Unreasonably Persistent Complainants**

- 28.1 The Local Authority is committed to dealing with all complaints fairly. However there are a small minority of complainants who hinder the consideration of their or other people's complaints; or use unacceptable behaviour.
- 28.2 Some examples of actions and behaviours which the Local Authority designate as unreasonable or unreasonably persistent are:
- Abusive, offensive or threatening behaviour;
  - Refusing to specify the grounds of a complaint despite offers of assistance from staff;
  - Refusing to accept that issues are not within the remit of the complaints procedure despite having been provided with information about the scope of the procedure;
  - Insisting complaints are dealt with in ways which are incompatible with the complaints procedure;
  - Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on; or raising large numbers of detailed but unimportant questions and insisting they are all fully answered;
  - Making unnecessarily excessive demands on the time and resources of staff, for example by excessive telephoning; sending e-mails to numerous council staff or writing lengthy complex letters every few days and expecting immediate responses.
- 28.3 When we consider that a complainant is unreasonable or unreasonably persistent the Information Governance, Compliance and Complaints Manager may take a decision to restrict access to the complaint's procedure. Any restrictions imposed will be appropriate and proportionate, the options most likely to be considered are:
- Requesting contact in a particular form (for example letters only);
  - Requiring contact to take place with a named officer;
  - Restricting telephone calls to specified days and times; and/or
  - Asking the complainant to enter into an agreement about their conduct.
- 28.4 In all cases the Information Governance, Compliance and Complaints Manager and/or Assistant Director will write to the complainant to inform them why his or her behaviour falls into the category of unreasonable or unreasonably persistent, what action will be taken and the duration of such action.
- 28.5 Where a complainant whose complaint is closed persists in communicating with the Local Authority about it, we may decide to terminate contact with the complainant. In such cases

the Information Governance, Compliance and Complaints Manager will read all correspondence from the complainant but unless there is fresh evidence which affects the decision on the complaint, we will simply place it on file.

## Appendix 1

### Investigating a Formal Complaint

#### 1.0 Receiving a Complaint

- 1.1 If a complaint is made directly to a member of social care staff, ~~it should be passed to the~~ Complaints Team should be notified immediately so the complaint can be recorded and monitored. However, there may be no need to engage the complaints procedure if the matter can be resolved quickly.
- 1.2 Complaints received directly by the Complaints Team will initially be dealt with at Stage 1 of the complaints process in order that the appropriate manager can address the concerned raised, account for the actions of their staff and attempt to offer resolution.
- 1.3 It will be at the discretion of the Complaints Manager/Senior Complaints Officer as to whether a complaint is serious enough to warrant bypassing stage 1 and registered at Stage 2 of the complaint's procedure. This would be in very limited/exceptional circumstances.

#### 1.4 Stage 1 – Local Resolution

- 1.5 It is expected that most complaints should be resolved through local resolution.
- 1.6 A Stage 1 investigation will normally be the responsibility of the manager subject to the complaint(s). Upon receipt, the Complaints Team will acknowledge the complaint within 3 working days and discuss with the complainant:
  - which issues they want registered as a complaint,
  - advise the complainant if any of the issues are outside the remit of the Children and Young People's Complaints Policy and Procedure,
  - and ask what remedy would resolve their complaint.
- 1.7 The agreed points of complaint will be logged by the Complaints Team and details of the complaint and desired remedy will be forwarded to the appropriate Team Manager for action. If the complaint is regarding the Team Manager in question, the complaint will be forwarded to the appropriate Head of Service for action.
- 1.8 For issues which are outside of the remit of the Children's Complaint Regulations and/or are an expression of dissatisfaction which does not constitute a complaint, the Complaints Team will liaise with the appropriate social worker or Team Manager to try and resolve the issue informally, for example, ensuring that someone receives a telephone call back from an appropriate member of staff.

- 1.9 Managers tasked with responding to Stage 1 complaints should be open and flexible in their attempt to resolve the complaint and should examine how best to approach resolution, this could include meeting with the complainant to discuss their issues of concern rather than only communicating in writing.
- 1.10 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,
  - Produce a response for the complainant which sets out clearly the findings, whether the complaint has been upheld, not upheld or partially upheld, and what actions the Council will be taking.
- 1.11 The Manager undertaking a stage 1 must write to the complainant to inform of the outcome of their enquiries and any action they propose to take to try and resolve the complaint. A copy of the response must be sent to the Complaints Team.
- 1.12 If the matter remains unresolved, the complainant may wish to have their complaint registered at Stage 2 of the Complaints Procedure. The complainant must write to the Complaints Manager within 20 days of receiving the response to local resolution. The complainant must state the issue (s) which remain unresolved and an outline of why the complainant is dissatisfied with the response to local resolution.

## **2.0 Time limits**

- 2.1 The Local Authority will aim to complete Stage 1 within 10 working days of the complaint being logged by the Complaints Team where possible, however, in some cases more time is needed to give a full response. The Regulations allow up to 20 working days for the stage 1 to be completed. If resolution is likely to take more than 10 days, the Complaints Team should keep the complainant informed and agree a date by which they will receive their response.
- 2.2 If a response has not be received by the complainant within the agreed timescale for stage 1, a member of the Complaints Team will liaise with the complaint and appropriate manager to expediate a response in a timescale agreeable to the complainant. If, after the intervention of a Complaints Officer, a response is not received, the complainant may elect to have the complaint considered at Stage 2 of the Complaints Procedure.

## **3.0 Stage 2 – Investigation**

- 3.1 If the service user or their representative is not satisfied with the stage 1 response, they can request that their complaint is escalated to stage 2. This must be made in writing to the Complaints Team within 20 working days of receipt of the stage 1 response.
- 3.2 The complaints team will acknowledge the appeal within 3 working days and will thereafter liaise with the complainant to ensure the proposed complaint remains within the remain of this policy, agree the terms/scope of the complaint.

- 3.2 The consideration of complaints at Stage 2 is normally achieved via a formal investigation undertaken by an independent Investigating Officer and Independent Person. The Complaints Team can offer an alternative resolution, in agreement with the complainant, which would be undertaken by the relevant service area; this would not preclude the complaint from progressing to a formal stage 2 investigation if resolution was not achieved.
- 3.3 All formal stage 2 investigations will have an Investigating Officer and Independent Person appointed by the Complaints Manager/Officer. The Investigating Officer will not normally be an employee of the Local Authority. If the Investigating Officer is an employee of the Local Authority, they will not be in direct line management of the service or person about whom the complaint is being made. The Independent Person will have no direct link to the Metropolitan Borough of St Helens i.e., they will not be Elected Member of employee of the Local Authority, nor a spouse of an employee or member of the Authority.
- 3.4 The Investigating Officer and Independent Person will have access to all relevant Local Authority records and staff. If records from other agencies are required to facilitate a thorough investigation, the Complaints Officer will make a written request to the agency to produce relevant information within the bounds of normal confidentiality and with regard to the Freedom of Information Act 2000 and Data Protection Act 2018.
- 3.5 It is expected that formal investigations will be completed within 25 working days, however this may be impractical in some cases, particularly if the complaint is lengthy, complex or key witnesses are unavailable. Where it is not possible to complete the investigation within 25 days, Stage 2 may be extended to a maximum of 65 working days with the agreement of the Complaints Officer.
- 3.6 The Investigating Officer will maintain communication with the complainant and keep them advised of any unavoidable delays; and where possible agree with the complainant a reasonable timescale for completion. The reason for the delay and the revised timescale for completion will be confirmed in writing by the Complaints Team.
- 3.7 On completion of the investigation the Investigating Officer will produce a report detailing:
- Findings, Conclusion and Outcomes against each point of complaint.
  - Recommendations on how to remedy any injustice to the complainant (if appropriate)
- 3.8 The Investigating Officer's report will be forward to the Independent Person for their consideration.
- 3.9 The Independent Person will provide a report detailing:
- whether the investigation has been thorough and fair;
  - Whether everyone concerned has been able to express their views fully;
  - Whether the Investigating Officer's report provides an accurate and complete picture;
  - Whether there is agreement with the recommendations made by the Investigating Officer;
  - Any further recommendation the Independent Person wishes to make.



3.10 The Complaints Team will receive the reports, produce an action plan in relation to any recommendations made by the investigation and consider any appropriate remedy.

#### **4.0 Adjudication**

4.1 The Complaints Officer will present the reports, action plan and any recommendations regarding a remedy to the relevant Head of Service/Director who will consider:

- The Registered Complaints;
- The Investigating Officer's findings, conclusions and recommendations;
- The Independent Person's report;
- Complainants desired outcomes;
- Action Plan;
- Any recommendation regarding remedy.

4.2 The Head of Service/Director will prepare a formal response to the reports, including his/her decision on the complaint and any actions that will be taken with timescales for implementation. The formal response will be sent to the complainant together with copies of the Investigating Officer and Independent Person's reports. The response will also contain details of the complainant's right to request that the complaint is reviewed by an Independent Review Panel (Stage 3), if they remain dissatisfied.

4.3 The Head of Service/Director may wish to meet the complainant as part of the adjudication process or afterwards to explain his/her decision.

4.4 The Head of Service is responsible for ensuring that the action plan is implemented.

#### **5.0 Stage 3 – Independent Review Panel**

5.1 Where Stage 2 of the complaint's procedure has been concluded and the complainant remains dissatisfied they can request further consideration of the complaint by an Independent Review Panel. The request must be made in writing to the Complaints Team within 20 working days of receiving the formal response.

5.2 The Complaints Officer will acknowledge and assess requests for Independent Review Panel on a case-by-case basis, ensuring that complainants are aware of the Panel's remit and have realistic expectations regarding outcomes. If appropriate the Complaints Officer will discuss other options available for resolution with the complainant.

5.3 The Panel should be held within 30 working days of the request. If the Complaint Officer is aware of any delays in organising panel dates, they will inform the complainant in writing giving the reason for any delay.

5.4 The Complaints Officer will appoint an independent person (who must not have been involved in the Stage 2 investigation) to Chair the Panel and will work with the Chair regarding the arrangements for Panel.

#### **5.5 Purpose of Panel**

5.6 The purpose of Panel is to:

- Listen to all parties;
- Consider the adequacy of the Stage 2 investigation;
- Focus on achieving resolution;
- Reach a finding on each of the complaints reviewed;
- Consider making recommendations, including appropriate redress where complaints are upheld.

5.7 The Review Panel cannot re-investigate complaints, nor can it consider any new complaints which have not been investigated at Stage Two of the complaint's procedure.

### **5.8 Papers for Panel**

5.9 The Complaints Officer will confer with the Chair of Panel to produce a set of panel papers which give panel members sufficient information regarding the complainant's issues of concern and/or dissatisfaction; and the response they have received from the Department.

5.10 The panel papers will consist of:

- Stage 1 information (if relevant);
- Stage 2 Investigation Reports and Response;
- Any relevant Policy, procedure or practice guidance referred to in the investigation;
- Comments submitted from the complainant which focus on the complaints investigated at Stage 2, or the investigation itself.

5.11 Papers will be circulated no later than 10 working days before Panel. It is at the Chair's discretion whether any information received outside of this timescale is heard.

### **5.12 Attendance**

5.13 The Complaints Officer will write to invite the following to attend Panel:

- Complainant (with Advocate or representative if desired);
- Investigation Officer who conducted Stage 2;
- Head of Service/Director - if s/he has rejected any of the Investigating Officers findings at Stage 2. (If s/he accepted all findings s/he may delegate this responsibility);
- Complaints Manager or representative who will advise Panel regarding complaints legislation.

5.14 No party will be allowed to be represented by lawyers at the Panel.

5.15 Panel Chair makes the final decisions on attendees (including specific members of staff to provide specialist advice or opinion).

5.16 If key attendees are unavailable the Complaints Manager/Officer will consult with the Chair of Panel regarding whether the Panel has enough information to proceed.

### **5.17 Conduct of the Panel**

- 5.18 Panels will consist of a pre-meeting; presentations and deliberation:
- 5.19 Pre-Meeting: Panel members will meet in a closed session to discuss the order of business and any other relevant issues. No deliberations on the complaint will happen during this meeting.
- 5.20 Presentations: The Chair will open Panel by explaining its purpose and the need for confidentiality and advise the complainant of the respective roles and responsibilities of those.
- 5.21 Presentations on the points of complaint and desired outcomes by the complainant and the Local Authority will then begin. The first presentation should be by the complainant (if attending) who should be invited to talk about the complaint and expand on any relevant themes that would aid Panel's deliberation. The Chair must ensure that presentations are reasonable and relevant, exercising discretion in limiting their scope, substance or duration.
- 5.22 Panel Members will be given the opportunity to ask questions of all present and seek clarification on the issues being discussed so they are able to make recommendations regarding the outcome.
- 5.23 The Chair may invite the complainant, the Local Authority and any other attendees to ask questions and raise points of information and opinion relevant to the complaint. Again the Chair must ensure that questions are reasonable and relevant and use their discretion to limit the scope, substance or duration of such questions.
- 5.24 The purpose of hearing presentations is to understand each party's opinion of the complaint; it is not an opportunity to cross-examine attendees.
- 5.25 Deliberations: The Panel Members will then go into a closed session to deliberate on their findings and conclusions. The standard of proof applied by Panels will be the civil standard of 'balance of probabilities', this standard will be based on evidence and facts.
- 5.26 Panel Report**
- 5.27 The Panel is required to produce a written report containing a summary of the representations, their recommendations for resolution of the issues and the reasons for them. If any panel member disagrees with the majority, this should be recorded, and the reason given for it.
- 5.28 The report will be sent to the complainant; the Head of Service; the Children's Complaints Team and the independent person from the stage 2 investigation within 5 working days of the Panel meeting.
- 5.29 After Panel**
- 5.30 The Director of Children's Services will produce a formal response to the Panel's recommendations. The response will be developed by the Director of Children's Services and will be sent to the complainant (and other participants as necessary) within 15 working days of receiving the Panel Report. In developing the response, the Director may invite comment from all attendees.

5.31 The response will include how the Local Authority will respond to the recommendations and what action will be taken. If the Director deviates from the Panel's recommendations the reason for this will be included. The response will include information on the complainant's right to approach the Local Government Ombudsman if they remain dissatisfied.

Version	Author/Reviewer	Date	Review Date
1	Ian Blythin	Sep 2014	Sep 2015
2	Hannah Myers	May 2023	