

1) Please provide the names of all the EDRMS and Case Management Systems and other types of systems used by your Local and for what purpose / service area.

EDRMS currently - Civica W2 & Anite@ Work – Housing, Case Management – the core systems we have managing specific statutory case/application workflow for lines of business are outlined below

Northgate, Revs & Bens & Housing  
IDOX – Planning & Building Control  
IDOX TLC – Land charges application  
Civica APP – Licensing/Env Health  
Mayrise – Highways  
Whitespace – Environmental Services business management  
Locata – Homelessness management  
Stopford – Registrars  
Civica Legal – Legal Services case work  
Liquid Logic – Childrens Social Care & Early Help casework  
Mosaic – Adults social care casework  
Capita One & Sims – Education & Pupil case management  
Tranman – Fleet management Env services  
Transys – Integrated Transport Unit fleet management  
XN – Leisure – manages memberships

2) Please provide email system used and name of archive system that retains emails received and the retention period. Do you have a cloud system, if so please may you provide details.

Microsoft Office 365 Exchange  
4 Year Retention policy setup

3) Please provide the names of all software programs (i.e. Kofax, power bi etc) used by your Local Authority and for what purpose / service area.

The Council confirms that it holds this information. Please see response at Q1 - most of the software programs used by the Council. However some are being withheld from disclosure. Section 31(1)(a) of the Freedom of Information Act 2000 (FoIA) states that information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the prevention or detection of crime.

Disclosure under the FoIA is deemed to be disclosure to the world at large, i.e. placing it in the public domain. Disclosure of the withheld software programs would be valuable information to potential cyber criminals.

We therefore believe that the exemption at section 31(1)(a) of the FoIA is engaged and we are withholding details.

This exemption is subject to a Public Interest Test. Whilst the Council acknowledges the inherent public interest in transparency in its activities, it believes in this case the public interest in protecting the personal and sensitive data held on

its systems is of more significance. Furthermore, the cost to the public purse of responding to cyber attacks adds to the balance of arguments against disclosure. Taking these factors into consideration, the Council assesses the public interest is not in favour of disclosure.

- 4) Please provide all internal foi guidance, training docs and templates the council relies upon to assist employees in the delivery of handling and responding freedom of information requests
- 5) Please provide all internal SAR guidance, training resources and templates (or similarly named such as manuals/handbooks etc) the council relies upon to assist employees in the delivery of handling and responding to Subject Access Request
- 6) Please provide all internal complaints management guidance, training resources and templates (or similarly named such as manuals/handbooks etc) the council relies upon to assist employees in the delivery of handling and responding to Complaints
- 7) Please provide all internal guidance, training resources and templates (or similarly named such as manuals/handbooks etc) the council relies upon to assist the allocated employees whose role is to carry out investigations arising from a report of a potential Data Protection Breach
- 8) Please advise if you supply an internal newsletter/round-up/briefing/blog or similar to employees within the Children's Services department and how regularly
- 9) Please provide your policy, guidance notes for staff and all other associated documents held with relevance to the financial support provided by the Local Authority to person(s) with parental responsibility who are caring for a child subject to an Interim Care Order. *Due to the child's legal status, my understanding is that they are unable to claim child benefit for example.*

See attached

See attached

See attached

See attached

Directors Update – monthly  
Service Lead newsletter – monthly  
The Staff Briefing - 3 weekly m\’s teams meeting

**Placements Made Under Section 38(6) - Court Directed Placements**

In some cases, a direction under Section 38(6) can result in a child being placed with a connected person who is not a parent or other person with parental responsibility. In such circumstances it is proposed that the minimum fostering allowance is paid less child benefit where applicable. We would not propose we make payments to parents of the child under this arrangement, only to those connected persons (such as Grandparents) where they are not approved under Section 38(6).

	TIER 1 - weekly
Age	National Minimum
0-2 years	134
3-4 years	138
5-10 years	153
11-15 years	172
16+	202

In the 2020/21 tax year, you can claim child benefit: £21.05 per week for your first child. £13.95 a week for any further children.

Any agreement must be agreed with the service manager or lead and reviewed in a timely fashion.

S17 Support Policy attached

- 10) Do you publish a disclosure log of your responses to FOIs? If yes, from when did you start doing this?

Yes – commenced July 2022

## What is a data breach?

A data security breach is when personal or confidential information is placed at risk of being lost or being seen by someone who has no right to see it.

We are committed to the protection of personal information and measures are in place to safeguard the security of the personal information we hold. However, sometimes things can go wrong and this can lead to a breach of security involving either the information itself or the equipment on which information is held.

Working with personal data and being compliant with our data protection policy and the law, is everyone's responsibility. If you're unsure about what you're being asked to do with personal data, think that there is a risk when processing it or you've made a mistake when processing it, then it's really important that you raise this with your immediate line manager.

## Examples of data breaches

- Information posted to an incorrect address or emailed to the wrong recipient
- Unauthorised use or access to information or systems
- Information disclosed in error
- Incorrect handling of protectively marked information
- Information uploaded to the website in error
- Loss or theft of IT equipment, smart phones, paper files etc.
- Non-secure disposal of IT equipment, paper files etc.
- Hacking, website blocking, phishing emails
- Corruption of electronic data.

## What do I do if there's a data breach?

If you suspect there has been a data breach, it's important that you act swiftly and notify your manager. The manager should then investigate the breach by:

- [Following the Five Step Action Plan.](#)

## How to handle a data breach

If you suspect there has been a data breach, it's important that you act swiftly and responsibly to manage the situation.

Any potential breach of data security will present its own unique set of issues and problems to address.

To deal with a potential or actual breach you must follow these five steps:

- [Step 1: Control](#)
- [Step 2: Data recovery](#)
- [Step 3: Risk assessment](#)
- [Step 4: Notification](#)
- [Step 5: Evaluation](#)

## Step 1: Control

- Take ownership of the breach response. If you don't think you are the right person, then tell your Assistant Director / Line Manager immediately so that a prompt decision can be taken about who should manage it
- Identify any urgent action which must be taken to stop further breaches
- Report the incident to the [Data Protection Officer](#) providing as much information as you can about the nature of the breach. If you do not have all of the information requested, the breach should still be reported immediately and further information can be provided in due course
- Contact [HR and OD](#) for advice and support on any employee related issues relevant to the breach.

## Step 2: Containment / Data recovery

- Determine to what extent the data can be recovered and if unsure seek advice from the [Data Protection Officer](#) or Information Governance
- Recover ICT equipment - Check whether anything has been handed in to the police, or to another Wigan Council establishment or a partner organisation
- Recover hard copy materials - Arrange for return of documents if you know whose possession they are in. Wherever practical collect documents in person and determine the extent to which the information was disclosed or shared
- Consider if the completion of a disclaimer by the recipient would assist containment of the breach
- In the event of damage to, or loss of, data in our IT Systems, you should contact IT Support for advice on whether systems need isolating, access removed etc., and if possible, log the incident on the [IT Self Service Portal](#).

## Step 3: Risk assessment

### Assess the potential harm posed to data subjects by the breach.

- What data has been lost / stolen / disclosed?
- How many data subjects could be identified by the breach?
- What is the nature of our relationship with the data subjects e.g. are they service users, members of staff, elected members?
- Was the data confidential / sensitive?
- What harm could the breach cause to the data subjects?
- Was the data protected in any way which would prevent a third party from being able to access it / use it (e.g. software encryption)?
- What could a third party do with the data, and who could be at risk of harm as a result of this?

### Assess the potential harm posed to Wigan Council by the breach. Consider:

- Loss of trust in a service / the organisation as a whole
- Damage to credibility and reputation
- Difficulty in encouraging future take up of our services
- Damage to the employer / employee relationship
- Potential for an Insurance claim against the Council and contact Insurance for advice.

### **Assess the potential harm to other third parties.**

- Who are these parties? Are they individuals, groups, organisations?

### **Determine mitigating / remedial action in response to these risks.**

- What can you do to protect / support parties you have judged to be at risk of harm?
- What do you need to do to prevent a repeat of this situation? (procedural change, staff training)
- Are there any disciplinary issues to pursue?

### **Formulate your action plan in light of your risk assessment.**

- Consider how these risks impact on your need to notify people about the breach
- Seek guidance from the [Data Protection Officer](#) or Information Governance on any issues you are unsure about.

## **Step 4: Notification**

**IMPORTANT:** Before any parties are notified, you must check with the [Data Protection Officer](#) or Information Governance.

### **Decide if you need to inform anyone outside the organisation about the breach.**

- Who is at risk of harm as a result of the breach? Could notifying them help you disseminate advice to assist damage limitation and help individuals to protect themselves from potential harm?
- Would notifying the data subject cause further harm? Check with the [Data Protection Officer](#) or Information Governance if unsure
- Are there any regulations which require you to notify an official/ regulatory body?
- Is there a contractual relationship which requires you to notify in the event of a breach?
- Should the incident be reported to the police?

**What information do you need to share as part of the notification? Where possible, include:**

- An apology (if appropriate)
- An explanation of what has happened and how the breach occurred
- Whether the breach is suspected or confirmed
- Date / time of the breach
- What data was involved?
- What you have already done / will be doing to remedy the situation
- What risks may be posed to the individual by the breach and what steps they can take to protect themselves
- Any action you will be taking to help protect the data subjects
- Contact details for questions, problems and complaints.

## Does the Information Commissioner's Office need to be informed?

- The Data Protection Officer (Compliance) will consider whether or not the ICO needs to be informed, based on the information you provide about the breach.

## Step 5: Evaluation

### Complete your investigation and evaluate your findings.

- Produce a report / response document (appropriate to the scale / nature of the breach)
- Have you identified the cause of the breach?
- Have you identified / implemented appropriate actions to limit damage in light of the breach?
- Do you have a strategy for addressing problems with internal processes / systems?
- Have you identified / planned to engage with key stakeholders for relevant processes / systems?
- Has your investigation uncovered weaknesses / danger points which you / the organisation were previously unaware of?
- Do you have a strategy for proactively addressing these issues with relevant teams / parties?
- Is there anything else which could / should have been done prior to the breach which may have prevented it?

### Sign off and feedback.

- Report your findings to the [Data Protection Officer](#) and share with your Assistant Director
- The Information Security group will consider and may challenge findings and identify any outstanding actions.
- Assistant Director's will be required to confirm the implementation of any outstanding / agreed actions in line with agreed recommendations

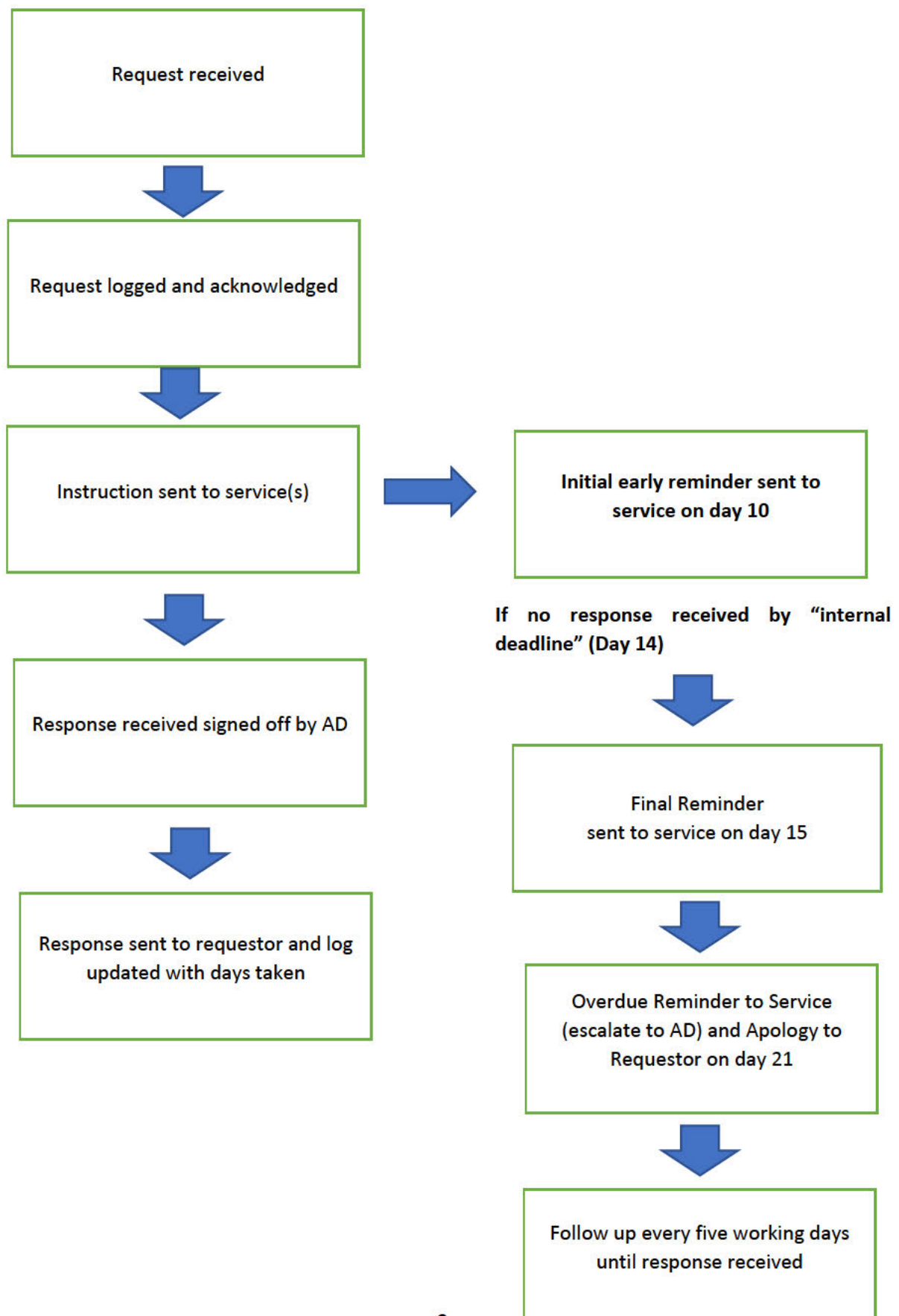
**Freedom of Information (and EIR) – process notes and current procedure  
as at March 2022**

**1. The Basics**

- Governed by the [Freedom of Information Act 2000](#), the [Environmental Information Regulations 2004](#) and the [Appropriate Limit and Fees Regulations 2004](#)
- The [ICO guidance pages](#) are very helpful.
- Requests must be in writing (email or social media are valid requests)/EIR can be verbal
- Requests must have a name (at least a surname) and an address (email is fine). EIR can be verbal.
- Requests should be treated as applicant- and motive-blind, i.e. it doesn't matter who is asking for the information or why (some exceptions may apply to this rule in respect of vexatious requests or where there is ongoing legal or regulatory action).
- Responses should be sent promptly and "in any event" within 20 working days; this can be extended for Public Interest Test and EIR requests (in certain circumstances)
- If information is held, then there is a presumption of disclosure
- There are a number of exemptions covering circumstances where disclosure is not appropriate.

## Process in summary

Template emails for each of these stages are held on [Sharepoint](#)





## Request received, logged and acknowledged

The vast majority of requests (probably over 99%) come into the FOI In Box by direct email, forwarded by another service or by Formpost. Very occasionally a request will be received by post.

Verbal requests cannot be accepted; they are not valid requests in the Freedom of Information Act 2000 (FoIA). Verbal requests, however, can be accepted under EIR.

On receipt of email

- (i) Determine it is a valid request – i.e. with a name and asking for information
- (ii) Identify the service(s) likely to hold the information – see note below. Use Multiple if more than one service.
- (iii) Log the request with information required on Sharepoint
- (iv) Date of receipt is the date the Council received the request, not the date it got to IG Team or the date it is logged
- (v) Day 1 of the 20 working days starts the next working day after receipt
- (vi) The 20 working day deadline does not include weekends or bank holidays
- (vii) Set status to *Awaiting Response from Dept* and in time to *Ongoing*
- (viii) Only need to complete as far as Applicant Type at this stage
- (ix) Send acknowledgement to requestor
- (x) Save the request and acknowledgement emails to Sharepoint – important to do this at the time given the numbers of requests. Delete email from in box

## Services holding the information

Spreadsheets are maintained for each Directorate setting out which service holds the information requested and where instructions should be directed. These are currently stored in the [Shared Documents](#) section of Sharepoint and are updated, as required.

## Instruction sent to Service

- (i) Complete the Instruction Form template with FOI reference number, names of service area(s), AD name, the request wording and deadline date for internal response
- (ii) Internal deadline is 14 working days after receipt
- (iii) Use precise wording from the request. Numbering can be added if this will aid clarity, but do not change the wording
- (iv) If there are previous responses that will help with completion of the request, then provide a copy to assist the service
- (v) Send Instruction Form to relevant contacts/email box as per [Contact Spreadsheets](#)
- (vi) Forward request to PR (Chief Exec - Public Relations [pr@wiganmbc.gov.uk](mailto:pr@wiganmbc.gov.uk)) if request was from a journalist/media outlet.
- (vii) Save Email with Instruction Form attached to Sharepoint - important to do this at the time given the numbers of requests. Delete email from in box

### Queries arising from the Instruction

- (i) Service may come back and advise that the request is not for them either in whole or part. If so, amend log to indicate where Instruction should be sent to and forward to relevant contact
- (ii) Service might ask for **clarification** of the request.
  - a. If so, use template email to ask the requestor for clarification
  - b. Set status to *On Hold while waiting Clarification from Applicant* and In Time to *Yes while awaiting clarification from requestor*
  - c. 20 working days re-starts at zero on receipt of clarification, so re-set deadline date at that point
  - d. On receipt of clarification, send clarification to service and inform them of new 14 day internal deadline
  - e. Reset status to *Awaiting Response from Dept* and in time to *Ongoing*
  - f. If no clarification received after 2 months, close request with status changed to did not proceed.
- (iii) Service will ask for advice on exemptions. See section below on Exemptions in Response section.
- (viii) Save all correspondence to Sharepoint - important to do this at the time given the numbers of requests. Delete email from in box

### Internal Reminders

- (i) If the approved response has not been received by end of business on Day 9, then send on Day 10 template *Day 10 Reminder* of the upcoming internal deadline, along with the original instruction. Save to Sharepoint and Delete email from in box
- (ii) If the approved response has not been received by internal deadline, then on Day 15 send template *Day 15 Reminder* to the service which gives them five days before the statutory deadline is reached. Save to Sharepoint and delete email from in box

If there has been no correspondence at all from the Service by Day 18, then the IG Officer will inform the IG Manager who will consider the appropriate way forward, e.g. intervention with the AD.

### Response

Responses will come in a variety of formats and may need querying.

It is important to check that the response has the *appropriate approval* – by at least Assistant Director (or equivalent) in the following areas:-

- All Services in the People's Directorate
- Growth & Housing (including Planning/Building Control/Major Projects)
- HR & OD
- Finance
- PR
- Corporate Property Assets & Greenspaces [REDACTED]
- Transformation & Community Resilience [REDACTED]

Approval is by Service Manager (or equivalent) in the following areas:-

- Infrastructure & Highways – [REDACTED]
- Regulatory & Licensing – [REDACTED]
- Waste and Vehicle Fleet – [REDACTED]
- Greenspaces – [REDACTED]
- Metrofresh and School Transport – [REDACTED]
- Environment/Parking – [REDACTED]
- Customer Services – [REDACTED]
- IT – [REDACTED]
- Legal – [REDACTED]
- Statutory notice requests – see page 13

Approvals will come directly from some of the above or from a PA/dedicated FOI In Box, [REDACTED]. In those cases, appropriate approval can be assumed. If responses come from anywhere else, check whether it has appropriate approval.

#### *Checking responses*

It is important to check that the response fits the request.

- Have all questions been answered?
- Are any exemptions in line with the Act, including the Public Interest Test, if necessary?
- Do section 12 refusals provide an estimate of the time required to comply?
- Do any links to information work and if so, is the information easy to find?
- Is any personal data redacted or disclosed lawfully (normally only if with consent or already in the public domain)?
- Do sub-totals add up to totals?
- Check spelling and grammar

#### *Response format*

Use the Instruction Form template to record the response which should be saved in pdf format (other than spreadsheets which remain in Excel). Embedded files should be saved separately as they cannot be opened from a pdf.

Attach to an email using the template response wording.

Save approved response from service and response to applicant in Sharepoint - important to do this at the time given the numbers of requests. Delete email from in box

Record the following in Sharepoint

- Change status to *done*
- Date that response was sent
- Number of days taken
- Whether in time or not (i.e. within 20 working days)
- Any exemptions used.

Forward response to PR (Chief Exec - Public Relations [pr@wiganmbc.gov.uk](mailto:pr@wiganmbc.gov.uk)) if request was from a journalist/media outlet.

**Disclosure log** – when the disclosure log is up and running, it will also be necessary to upload the response via the content management system (*process and implementation date tbc*)

### *Exemptions*

Whilst there is a presumption in favour of disclosure, there are a number of exemptions available under the Act. It is not possible to describe every possible scenario in these notes, but the most frequently used, including some pointers on issues that might arise/misconceptions, are listed below. **Note that it is our role to advise the service on how the exemptions are applied, but the service should provide the “evidence” to support the exemption, where necessary.** Similarly, the service should undertake the Public Interest Test where required, although advice and guidance from IG is sometimes required. Exemptions used should be recorded on Sharepoint.

- Section 12 – exceeds 18 hours

Where it would exceed 18 hours to locate and retrieve the information requested, the Council is not obliged to comply with a request. Time to redact cannot be counted towards the 18 hours. The service should provide an estimate of how it has calculated that the time taken would exceed 18 hours, e.g. 500 files to check at 5 minutes each (note 18 hours is 1080 minutes). Unless there is no way that the request could be refined to come within 18 hours, we are required (under section 16 of the Act) to provide advice and assistance to the requestor. So, we could ask them if they would be satisfied with, say, one year’s information or just some of the questions; this will vary depending on the request. We should not make the assumption for them. We can stop the clock whilst we are awaiting the response (as for a clarification) and re-start it at Day 1 when we receive the response. Obviously, it is better to provide advice and assistance as soon as possible.

Technically if the whole response would exceed 18 hours, we are not required to answer any of the questions, but sometimes services will answer 7 out of 8 questions and advise it will take more than 18 hours to answer the final one. In this case, a pragmatic approach of just applying section 12 to that question is normally adopted.

Costs of multiple related requests from the same person (or from people acting in consort) can be aggregated, subject to certain conditions. This will happen rarely.

Standard wording for section 12 exemption is as follows:-

We do not hold the information that you have requested in an easily retrievable format. Section 12 of the Freedom of Information Act 2000 (FoIA) relieves a public authority from the obligation to comply with a request for information where the estimated time required to locate, review and extract the information exceeds a certain threshold set out in Regulations.

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (SI 2004/3244) set out the rules in relation to the cost limit (otherwise called the “appropriate limit”). These Regulations are published by the Office of Public Sector Information (OPSI) and are viewable on their web site from this link: [http://www.opsi.gov.uk/si/si2004/uksi\\_20043244\\_en.pdf](http://www.opsi.gov.uk/si/si2004/uksi_20043244_en.pdf)

The Regulations set out the cost limit for Government departments and for other public authorities. For local government, Regulation 3 states that the cost limit is £450 and Regulation 4(4) states that the prescribed hourly rate is £25. Regulation 4(4) further provides that where the local authority estimates the time taken to gather the information would exceed this limit (which based on the prescribed hourly rate, equates to 18 officer hours), it may refuse the request under section 12 of FOIA. I am satisfied the cost limit applies to your request and will explain why this is the case.

*Insert evidence/estimate from the service*

- Section 21 – information accessible by other means

This is most frequently used when the response directs the requestor to a website (ours or elsewhere). Examples are (i) the Contracts Register, the Planning Portal, Committees pages from the Council’s website or (ii) Government websites for, say, Homelessness or EHCP stats or (iii) the Land Registry. This exemption can be used even if the requestor has to pay for the information. There is no need to undertake a Public Interest Test.

- Section 30 – ongoing or potential investigations by the local authority
- Section 31 – law enforcement (primarily prevention of crime)

These are similar exemptions to be used where prejudice would be caused to an ongoing investigation or might increase the risk of crime.

Section 30 is used primarily by Regulatory for Food Inspection Reports which have an unsatisfactory rating, although there could be other examples (perhaps, Planning Enforcement).

The standard wording for the Food Inspection Report exemption is as follows:-

We can confirm that an officer visited XXXXXXX on DATE to carry out a food hygiene inspection. The outcome of this inspection was a Food Hygiene Rating of 1, (Major improvement necessary).

The specific criteria assessed is summarised in the table below:

Criteria Assessed	Intervention rating score
Compliance with food hygiene and safety procedures	15 (major non-compliance)
Compliance with structural requirements	15 (major non-compliance)
Confidence in management/control procedures	20 (significantly varying record of compliance)

The information requested is exempt under Section 30 (1)(b) of the FOI Act which states that:

Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct.

This exemption is subject to a “public interest test”. This has been considered and concluded that as the information could still be referred to in any future proceedings, disclosing the information could potentially prejudice any future investigations.

Our public interest argument is as follows:

Public interest arguments in favour of maintaining the exemption:

The information contained within the food hygiene inspection report could be considered in determining whether or not legal proceedings against the business should be instigated. The information would form part of any prosecution file. Premature disclosure of this information could compromise the proceedings and prejudice the right to a fair trial.

Public interest arguments in favour of disclosure:

Disclosure would promote transparency and accountability in how the council carries out its regulatory function. Such transparency could help to improve food hygiene standards by promoting good practice and highlighting business that need to make improvements. It may also improve the standards of inspections and decisions taken by the council.

Disclosure of information about businesses which do not meet the required standards enables the public to decide whether or not to use their services.

Balance of the public interest arguments:

The Food Hygiene Rating Scheme provides the public with information about the hygiene standards in food premises. The rating is publicly available and therefore, to an extent, allows the public to make informed choices. This reduces the case for disclosure. We are therefore of the view that, in this case, the public interest falls in favour of maintaining the exemption.

The Section 31 exemption is used in three main areas – requests for details of Empty Residential Properties, for Cyber Security process/information; for Public Health funerals.

The standard exemption for Empty Residential Properties is along the following lines:-

The Council maintains that this information is exempt from disclosure for under Section 31 of the Freedom of Information Act 2000.

The information you have requested is exempt from disclosure under section 31(1)(a) of the Freedom of Information Act 2000 on the grounds that disclosure of this information would prejudice the prevention and detection of crime. Disclosure of this information would involve releasing the addresses of empty properties which could make the properties more vulnerable to criminal and anti-social activities. In particular, the Council believes that disclosure of the information could have the following effects:

Disclosure would provide a ready-made list of empty properties which could be used by criminals who could target empty properties to commit property crimes and fraud. Release of information which is not easily available at present would better enable a fraudster to persuade the council that they were the ratepayer. It would entail significant time and expense for the Council to alter its security system to protect against any potential fraud. Disclosure of the information would make it easier for criminals to target empty properties in which waste could be dumped. Release of information could be used to locate potential venues for illegal raves, construction of cannabis farms or other associated crimes such as criminal damage in accessing the property, further drug offences and public order offences.

A list of empty properties could be used by urban explorers to locate new properties to explore and could lead to an increase in crimes associated with urban exploring such as criminal damage to gain entry. Disclosure of a list of empty properties may lead to an increase in crimes such as criminal damage, arson and anti-social behaviour, which are often associated with squatting. There is a real and significant risk that fraud would be made easier by the release of this information and that the provision of a readymade list of empty properties makes it easier for criminals to identify targets for the crimes listed above. Therefore, disclosure would be likely to prejudice the prevention of crime.

This is a qualified exemption and requires a public interest test to consider whether the public interest in maintaining the exemption outweighs the public interest in the disclosure of the information.

**Public interest arguments in favour of disclosing the information**

Openness and transparency in relation to procedures and decision making of public authorities and collection of taxes and management of finances

**Public interest arguments in favour of maintaining the exemption**

The release of this information would make it much easier for a fraudster to pose as an account holder and bypass the Council's security systems.

Disclosure would also facilitate a fraudster posing as the Council to obtain confidential information from a ratepayer

The standard exemption for Cyber Security is along the following lines (will need tweaking to fit the circumstances):-

Section 31(1)(a) of the Freedom of Information Act 2000 (FoIA) states that information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the prevention or detection of crime.

Disclosure under the FoIA is deemed to be disclosure to the world at large, i.e. placing it in the public domain. Disclosure of the requested information would be valuable information to potential cyber criminals allowing them to identify patterns of previous attacks and possible weaknesses in cyber security systems.

We therefore believe that the exemption at section 31(1)(a) of the FoIA is engaged.

This exemption is subject to a Public Interest Test. Whilst the Council acknowledges the inherent public interest in transparency in its activities, it believes in this case the public interest in protecting the personal and sensitive data held on its systems is of more significance. Furthermore, the cost to the public purse of responding to cyber attacks adds to the balance of arguments against disclosure. Taking these factors into consideration, the Council assesses the public interest is not in favour of disclosure.

The standard exemption for Public Health Funerals when personal data is requested is:-

Under FOI the Authority has a right to refuse to release information if an exemption applies. In this case the exemption is Section 31(1)(a) of the FOI Act. Which states "Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—(a)the prevention or detection of crime,"

It is our view that disclosure of the information requested in questions 1-7 is likely to prejudice the prevention of crime. It is our view that disclosure of the information would enable someone to target empty properties. This is supported by decision notices FS50584670, FS50583220 and FS50586033. This exemption is subject to a "public interest test".

Our public interest argument is as follows:

Public interest arguments in favour of disclosure:

Disclosure may enable living relatives to identify themselves which could speed up the probate process and enable the council to reclaim money.

Public interest arguments in favour of maintaining the exemption:

Any information provided in responses to the questions could identify the deceased and their former home which could lead to theft or vandalism.

Balance of the public interest arguments:

There is an inherently strong public interest in avoiding likely prejudice to the prevention of crime and tackling issues that would arise as a result of individuals being identified would involve significant public expense. There is also a strong public interest in avoiding distress to the direct victims of crime related to empty properties including neighbours and the wider community. We are therefore of the view that the exemption should be maintained.

- Section 36

This exemption is used where disclosure would prejudice the conduct of public affairs. It is used rarely and is a high bar to clear. In addition to the refusal engaging the exemption, there is a requirement to obtain the qualified person's opinion. This is the Council's Monitoring Officer (or Deputy Monitoring Officer in their absence) and a template available at [Shared Documents](#) must be used to record this opinion. A public interest test is also required.

- Section 40

There are two parts to this exemption. Section 40(1) is where the requestor is asking for their own data; of course this is most likely to be a SAR. Section 40(2) is where disclosure is exempt because it would be disclosing third party personal data.

Section 40(2) can be used for parts of a request (names of junior staff to be redacted etc) or for whole questions or requests. For section 40(2) to be engaged, the information to be disclosed has to be personal data AND one of three conditions has to be satisfied. The most likely condition is section 40(3A), i.e. disclosure would breach one of the data protection principles. As we need a lawful basis to process the personal data, it is likely to be the first data protection principle that is breached as disclosure under FOI would only be lawful with consent or for legitimate interests. Consent is not in place in most cases, so it is necessary to undertake a legitimate interests test. As disclosure is to the world at large which could cause harm to the data subject's fundamental rights and freedoms, there has to be a strong legitimate interest to favour disclosure. This will occur rarely, an example being non-payment of Council Tax by councillors.

- Section 41

This provides an exemption where disclosure would breach the duty of confidentiality when we had received information in confidence. It does not provide an exemption merely because information is marked confidential. Until recently we did not use this very frequently, although a recent case in the First Tier Tribunal means that requests for Business Rates information are being refused using this exemption (and section 21).

The standard wording of the refusal for Business Rates information is as follows:-

We can confirm that we hold the information you requested however are refusing to provide you with the information as we consider exemptions under sections 21 and 41 apply.

Some of the information you have requested is considered exempt under Section 21 of the Act, which applies to information which is available to you by other means. This exemption applies to the Billing Authority reference number and the 2017 rating list including property address and description. This information can be obtained from the Valuation Office Agency's website - [www.voa.gov.uk](http://www.voa.gov.uk)  
As this information is reasonably accessible to you by other means, we are not obliged to provide this information to you under the Freedom of Information Act.

The remaining information requested is considered exempt under section 41 of the Act. Section 41 applies to information provided in confidence.



This applies to the account/business name of the liable party and the billing address, the account start date, details of if the property is currently subject to rate reliefs, the date from which any reliefs have been applied and their values including if the property has an occupied/empty status. This information is exempt under section 41 because we consider that the common law principle of tax payer confidentiality applies.

Section 41, relates to information provided in confidence and states:

Information is exempt information if-

a. it was obtained by the public authority from any other person (including another public authority), and

b. the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

Section 41(1)(a) requires that the information in question was obtained from any other person. The information in question has been obtained by us from owners, ratepayers and third-party companies/agents, therefore we consider this part of the exemption satisfied.

Section 41(1)(b) requires the disclosure by us to constitute an actionable breach of confidence. So the information must have the necessary quality of confidence, and in our opinion it does. It is recognised in English law that an important duty of confidentiality is owed to tax and rate payers.

This is what is known as "taxpayer confidentiality". This is a long-established principle of common law, protecting taxpayers' affairs against disclosure to the public. I am satisfied that the requested information is not trivial, nor is it available by any other means and if we were to disclose the requested information business ratepayers/their representatives could issue legal proceedings against us.

**The public interest test reasons for disclosure:**

Openness and transparency in relation to procedures and decision making of public authorities and collection of taxes and management of finances

**Reasons against disclosure:**

Remain compliant with necessary regulations - the common law principle of tax-payer confidentiality applies to this data.

Protect the public purse from legal claims against it, in relation to providing confidential information. The public interest defence (in any future legal proceedings) in providing the list of business rates information you have requested would likely fail thus it is determined, any prospective court action against the council may succeed (opening it up to claims for costs), this is in accordance with "Westminster City Council v ICO and Gavin Chait, EA/2018/0033, 2nd December and Sheffield City Council v ICO and Gavin Chait, EA/2018/0055, 16th December

Commercial impact on the business rates account holder, release of this data would likely constitute a breach of confidence as it could damage the individual's/organisation's competitive position, or ability to compete, as disclosure would reveal information that would assist competitors and negatively impact on the confider's relationship with the authority, potentially hindering future investment in the borough.

We conclude that for the reasons stated above, the public interest test for withholding this data outweighs the interest for its release therefore this information is being withheld from disclosure.

- Section 42

This is used where disclosure would breach legal professional privilege. We use it rarely, but it is an easy one to apply where it is relevant.

- Section 43

This exemption is used where disclosure would prejudice (i.e. harm) the commercial interests of the Council or of a third party (e.g. a contractor or supplier). It does **not** mean that commercial

information is exempt from disclosure as there has to be at least a likelihood that disclosure would cause harm to someone's commercial interests. In fact, the high level detail of all contracts is on the Contracts Register and the public interest in transparency and accountability of the Council's activities will weigh heavily. To engage the exemption, the Council has to establish why its commercial interests would be harmed by disclosure and/or get evidence from the third party of why their commercial interests would be harmed. Even then, a public interest test has to be undertaken and it is the Council that makes the final decision on disclosure.

### Follow Up Queries

After responses have been sent, there will be occasional follow up queries. Unless there is a significant follow up, these should not be added as new requests. Revert the Status on Sharepoint to *Awaiting Response* and send follow up query to the service. There is no timescale for responding to follow up queries, although 20 working days would be a sensible guideline. When the follow up response is received, send to the requestor and change status to *Done*.

### Overdue Reminder

If the approved response has not been received from the service after Day 20, then the service should get the template *Overdue Reminder* letter (copy in IG Manager so that she is aware of overdue responses). The template *Apology* letter should be sent to the requestor. Change the status on Sharepoint to *Overdue* and change In Time? To *No*.

Save email to Sharepoint – important to do this at the time given the numbers of requests. Delete email from in box

### Overdue responses – Escalation process

A reminder should continue to be sent to the service, copied to the AD and IG Manager, every five working days until a response is received. Obviously, if the service explains that there will be, say, a three week delay, those reminders can be paused and resumed if the response is not received. There is no need to send further apologies to the requestor. Save email to Sharepoint – important to do this at the time given the numbers of requests. Delete email from in box

### Senior Officer Reviews

If the requestor is dissatisfied with the response, they can request an Internal Review which are undertaken by one of four officers (Nicola Welch, Janet Davies, Andrew Lee, Andy Maguire). The Internal Review is required by law (section 17(7)(a) of the FoIA), although there is no statutory timescale for completion. However, in line with ICO guidance, we apply the 20 working days used for the initial request.

On receipt of a request for Internal Review, follow this process

- (i) Check on Sharepoint who is due to do the next review and allocate to them
- (ii) Send reviewer all of the previous correspondence with indication of 20 day deadline
- (iii) Change *Status* to INTERNAL REVIEW ONGOING

- (iv) Insert date *Escalated to SOR*, select *Reviewer* from drop down list and insert *20 Day Deadline* and *40 Day Deadline*
- (v) Send acknowledgement to requestor
- (ix) Save all correspondence to Sharepoint. Delete email from in box.

If response not completed by Day 15, send reminder to Reviewer.

The reviewer will complete the response and send to FOI In Box for forwarding to requestor. A template for the response is available at [Senior Officer Review Response Letter Template](#)

On completion of the response, update the *Outcome* box on Sharepoint (with one of SOR Rejected Complaint, SOR Upheld Complaint, SOR Partly Upheld Complaint) and insert *Date Sent*. Complete *Action by FOI* if necessary. Revert *Status* to Done.

Save all correspondence to Sharepoint and delete email from in box.

### PALI

A Conveyancing Search Provider – PALI – submits regular requests for information on Statutory Notices issued by Wigan Council; we receive 30-40 a month. These are all EIR requests and have a slightly amended process. The instruction needs to be sent to six areas – Environmental Enforcement (EEE), Regulatory, Highways/NMS, Building Control, Housing and Community Resilience using a modified instruction built into a bespoke signature. The template is available at [PALI Instruction](#). A reply is required from all six areas before the response can be sent to PALI, again using a bespoke template – [PALI Response](#).

### Environmental Information Regulations 2004

Requests for “environmental information” should be handled as EIR requests under the Environmental Information Regulations 2004. The administrative process is the same as for FOI requests, although the *EIR* box needs to be checked on Sharepoint.

Environmental information is defined in the [Environmental Information Regulations 2004](#), Regulation 2. Regulation 2 is very detailed, but in brief defines environmental information as information relating to

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements,
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

plus three more obscure definitions.

**In effect, Regulation 2 means that almost any request about waste, energy, planning, development, regeneration, land use, contamination, pollution, noise, traffic should be dealt with under EIR.**

The main difference between FOI and EIR is that the valid reasons for refusing to disclose information are different, although many of them cover the same issues. Under EIR, they are called Exceptions and fall within Regulations 12(4) which are procedural exceptions, 12(5) which are adverse effect exceptions and 13 (personal data).

Detailed process notes for EIR will be produced in due course.

## Other matters

### Performance Reports

The following Performance Reports are required to be completed by the Information Governance Officer leading on FOI.

1. Monthly and quarterly reports to Information Governance Operational Group on the number of requests received and the percentage responded to within 20 working days (the KPI), the average number of days taken for responses made within 20 working days, the number of internal reviews received and completed and the number of outstanding responses at the time of the report. To be provided at Council and AD level.
2. Quarterly report at Council level on the number of requests received and the percentage responded to within 20 working days (the KPI), the average number of days taken for responses made within 20 working days, the number of internal reviews received for [publication on the Council website](#).
3. Quarterly report at Council level for the Resources Directorate Management Team on the Key Performance Indicator for responses made within 20 working days.
4. Ad hoc reports to Confidential Council Scrutiny Committee and to Audit, Governance & Standards Committee. Request will come from Democratic Services and/or [REDACTED].

### Publication Scheme/Publishing Responses

The Freedom of Information Act 2000 requires the Council to publish a Publication Scheme. This is available on the [Council's website](#) and should be updated each year, at a minimum to ensure all links and information is correct. A more substantial review is advised every few years.

Plans are in hand to publish all FOI and EIR responses on the Council website in line with best practice.

Dear Sir / Madam

**FOI XXXXX**

I am emailing to confirm the receipt of your recent request for information to Wigan Council. This has been logged with reference indicated above and will be forwarded to the relevant department for action.

We will respond as soon as possible and in most cases no later than 20 working days after the receipt of your request i.e. by DATE.

If you have any comments or questions in the meantime, please direct them to [foirequest@wigan.gov.uk](mailto:foirequest@wigan.gov.uk), or in writing to the address below.

The Council does not charge for most FOI requests, but charges may be made for actual disbursements incurred such as photocopying, printing, postage and packaging, and only if these charges amount to more than £20.00. If a charge is to be made, confirmation of the payment due will be given before the information is provided and payment may be requested prior to the provision of the information.

Kind regards

**Information Governance Assistant**

**As a public body, the Council may be required to disclose this email or any response**

Dear

We have received the attached request for information. Please complete and return the attached form to [foirequest@wigan.gov.uk](mailto:foirequest@wigan.gov.uk)

**We would appreciate it if you could send the information back to us by: DATE IN FULL, but if this will not be possible, can you please let us know and we will keep the requestor informed.**

As we know you will be busy with the "day job", if we have not heard from you in ten days, we will send you a courtesy reminder and then a more formal reminder if we have not received the response by the above deadline date.

If you have problems meeting this deadline, if you require clarification, or **if the request (or any part of it) should be directed to a different department/service** please let us know IMMEDIATELY. Thank you.

FOI information and guidance - <http://thehub/OurCouncil/Policies-and-documents/Freedom-of-information/index.aspx>

More information and guidance on exemptions can be found on the ICO website at [http://ico.org.uk/for\\_organisations/freedom\\_of\\_information/guide](http://ico.org.uk/for_organisations/freedom_of_information/guide)

Should you have any comments on the form and/or any ideas for ways in which we can improve our service please do not hesitate to let us know.

**Kind regards**

**Information Governance Assistant**

## **Reminders (Internal Signatures)**

### **10 Day reminder**

Dear NAME

Further to our initial email below, this is just an early reminder that the response to this FOI request is due back to us by **date in full**. If we have not heard by then, we will send you a further reminder.

IG Assistant

### **15 Day Reminder**

Dear NAME

We are approaching the 20 working days statutory deadline for this request for the response to reach the requester; that deadline is DATE. We would be grateful if you could provide the information for the response as soon as possible. Please see the initial instruction attached.

IG Assistant

### **18 Day Reminder**

Dear Name

The response to this request is due to the requester in two days' time (date) and we have had no updates. Please provide a response as soon as possible.

IG Assistant

### **Overdue Reminder**

Dear Sir / Madam

The response to this request is now overdue; I would be grateful if you would provide the response as soon as possible. In the meantime, we will continue to send you reminders every week as it is still important that the response is completed. For your information, an apology has been sent to the requestor.

IG Assistant



## **Signatures to Requester**

### **Overdue Apology**

Dear XXXXXXXX

I am sorry for the delay in responding to your Freedom of Information Request. I am endeavouring to obtain the information for the response and will e-mail as soon as possible.

Kind regards

**Information Governance Assistant**

### **Response**

Dear Sir / Madam

I am writing to respond to your recent request for information. This request has been handled under the Freedom of Information Act 2000.

- The response to your request is detailed in the attachment(s)

If you are unhappy with any aspect of this response, an independent senior officer will review this decision. If you are not satisfied with our response you must put your complaint in writing within 40 working days of receipt of this response giving the reasons for your complaint. You can either email [foirequest@wigan.gov.uk](mailto:foirequest@wigan.gov.uk) or write to Freedom of Information at the address below.

You can also complain to the Information Commissioner, who is the regulator for Freedom of Information. The primary way to escalate your complaint to the Information Commissioner's Office (ICO) is to use the ICO's portal at [www.ico.org.uk/foicomplaints](http://www.ico.org.uk/foicomplaints). The ICO's general website is <https://ico.org.uk/> and their helpline number is 0303 1231113. The ICO may ask you to exhaust our internal complaints procedure if you choose to complain to them now.

Kind regards

**Information Governance Assistant**

**Freedom of Information (FOI)  
Environmental Information Regulations (EIR)  
Instruction Form**

The main principle behind the FOI/EIR legislation is that the public have the right to know about the activities of public authorities, unless there is good reason for them not to. **Disclosure of information should be the default.** In other words, information should be withheld only when there is a good reason and it is permitted by the Freedom of Information Act 2000/Environmental Information Regulations 2004

<b>Reference</b>	FOI	<input type="text"/>	<b>Service</b>	<input type="text"/>
			<b>AD</b>	
<b>REQUEST</b>				<b>DEPARTMENTAL RESPONSE</b>
<b>Deadline for return to FOI Request - (<a href="mailto:foirequest@wigan.gov.uk">foirequest@wigan.gov.uk</a>)</b>				

**Remember that:**

- Disclosure of the information should be the default
- A requester does not have to justify why they are asking for the information; on the contrary, we must justify refusing or withholding information
- All requests for information should be treated equally i.e. applicant and motive blind
- You should consider any information you release under the Freedom of Information Act 2000/Environmental Information Regulations 2004 as if it were being released to the world at large
- Environmental information is any information on:
  - the state of the elements of the environment and the interaction among these elements;
  - factors affecting or likely to affect those elements;
  - measures or activities affecting or likely to affect those factors or elements, or designed to protect those elements;
  - reports on the implementation of environmental legislation;
  - cost-benefit and other economic analyses and assumptions used within the framework of those measures and activities; and
  - the state of human health and safety, conditions of human life, cultural sites and built structures in as much as they are or may be affected by those elements

Please contact FOI Request ([foirequest@wigan.gov.uk](mailto:foirequest@wigan.gov.uk)) if you need advice on exemptions or other aspects of the Act/Regulations.

## Subject Access Request (SAR) Process Guide as of May 2023

### **The Right of Access**

The right of access (Article 15 of GDPR), referred to as subject access, allows individuals the right to receive a copy of their personal data, including other supplementary information. It assists individuals to understand how and why their data is being used, and check it is being used lawfully.

### **Recognising a SAR**

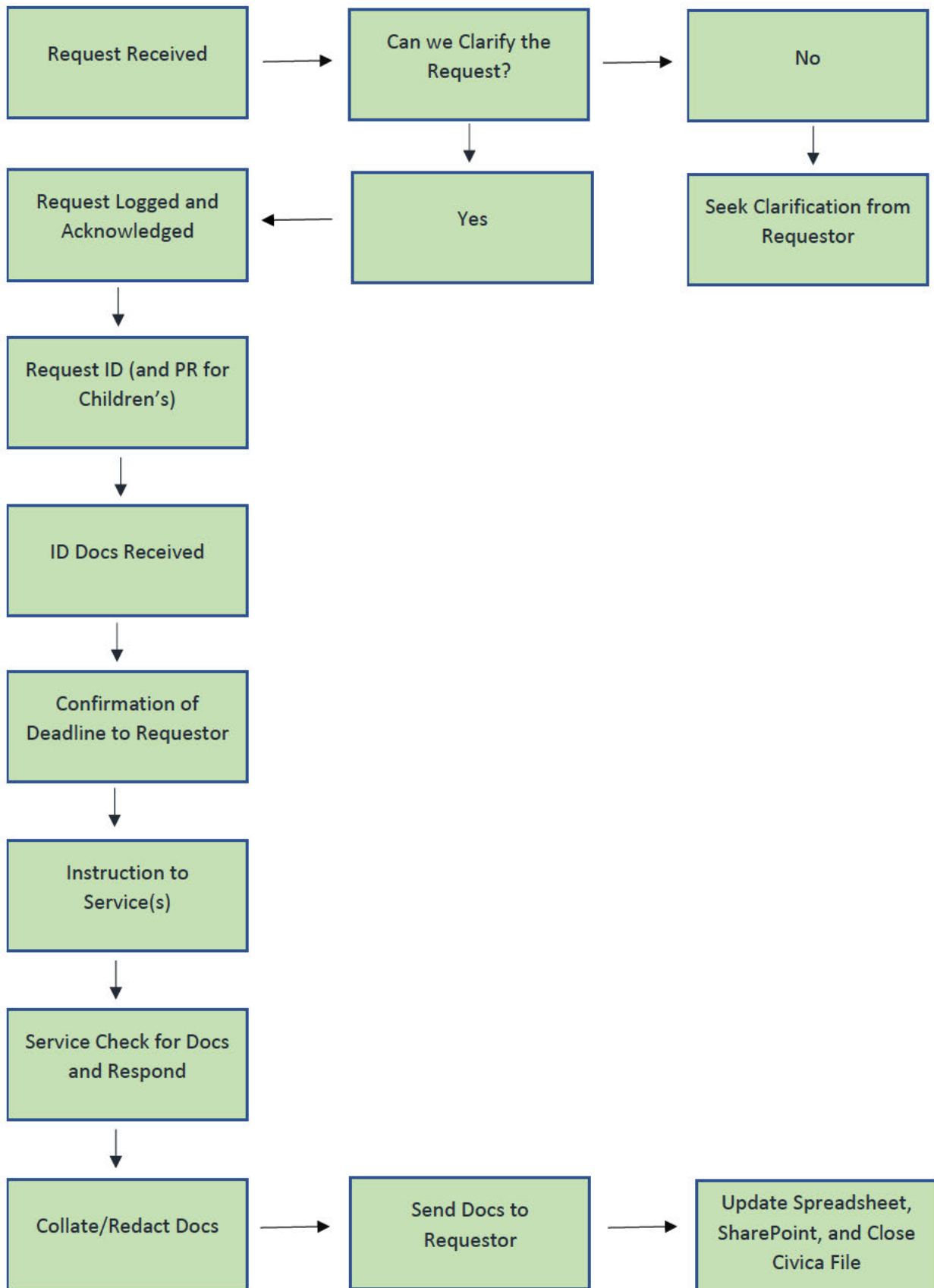
An individual can make a SAR verbally or in writing, including on social media. A request is valid if it is clear that the individual is asking for their own personal data. An individual does not need to use a specific form of words, refer to legislation or direct the request to a specific contact.

An individual may ask a third party (e.g., a relative, friend or solicitor) to make a SAR on their behalf. You may also receive a SAR made on behalf of an individual through an online portal. Before responding, you need to be satisfied that the third party making the request is entitled to act on behalf of the individual. It is the third party's responsibility to provide evidence of their authority.

ICO Guidance: [Right of access | ICO](#)

- Individuals can make SARs verbally or in writing, including via social media.
- A third party can also make a SAR on behalf of another person.
- In most circumstances, you cannot charge a fee to deal with a request.
- You should respond without delay and within one month of receipt of the request.
- You may extend the time limit by a further two months if the request is complex or if you receive a number of requests from the individual.
- You should perform a reasonable search for the requested information.
- You should provide the information in an accessible, concise, and intelligible format.
- The information should be disclosed securely.
- You can only refuse to provide the information if an exemption or restriction applies, or if the request is manifestly unfounded or excessive.

SAR Process



Request Received, Logged and Acknowledged - IG Assistants

- (i) Requests usually come into the Subject Access mailbox directly via email ([subjectaccess@wigan.gov.uk](mailto:subjectaccess@wigan.gov.uk)); however, they are also received via phone call and are occasionally received in the post.
- (ii) We then send a 'SAR acknowledgement' to the requestor.

SARs Received via Phone call (verbal SAR) – IG Officer

- (i) We receive some SARs verbally each month as our number is referred to requestors as well as our email.
- (ii) When receiving the call, we ask for the subject's details (name, address, email address, telephone number) and the request itself.
- (iii) If the requestor wants information relating to someone else i.e., their child, we also request their name and date of birth.

Logging a Verbal SAR - IG Assistant/IG Officer

- (i) Open a SharePoint/Civica file as normal.
- (ii) In the Civica file, right click in the file and click 'Correspondence Out'.
- (iii) In the description box, write 'Verbal SAR'.
- (iv) Right click underneath and click 'Add Document'.
- (v) Click the three dots on the right-hand side next to 'template'.
- (vi) Scroll down to 'File Note.doc' and press 'okay'.
- (vii) The file is then created in Civica.
- (viii) Right click on the file and press 'edit correspondence'.
- (ix) Complete form with detail listed.
- (x) Ask for ID etc. and follow normal SAR process.

Clarify Request IG Assistant/IG Officer

- (i) If the request itself is unclear, we respond to the requestor asking for further clarity, i.e., specific areas of the Council their documents may be held or specific timeframes of information.

Check the Request is Valid IG Assistant/IG Officer

- (i) If the SAR is made by someone other than the data subject (i.e., a solicitor, parent or relative), we need to check if they are allowed to have it.
- (ii) We require written authority to act on the person's behalf (consent) or a document showing the correct power of attorney.

SAR Timeframes

- (i) It doesn't matter if the day we receive the request isn't a working day. For example, if we receive a request on Saturday 6<sup>th</sup> May, we should respond by Tuesday 6<sup>th</sup> June.
- (ii) If the SAR's due date falls on a weekend or a public holiday, we have until the next working day to respond. For example, if we receive a request on 25 November, we should respond by 27 December.
- (iii) We can't add extra days when the calendar month is shorter. For example, if we receive a request on the 31 January, we should respond by the 28 February.

Check for ID IG Assistant/IG Officer

- (i) If we are uncertain who the requestor is, we need to request ID in the form of two forms of identification, one from each of the following:

Acceptable proof of identity:

- Current passport
- Current photo driving licence (full or provisional)
- Other photo ID

Acceptable proof of current address:

- Utility bill (last three months)
- Council tax bill (current year)
- Bank statement (last three months)
- Other official documentation (last three months)

- (ii) If the request involves a child's personal data, we need to see evidence of parental responsibility from the individual requesting the information (birth certificate or court order). If the child is over the age of 12, we also require their written consent to disclose their information to the individual acting on their behalf.

Instruction Sent to Service IG Assistant/IG Officer

Send instruction to service template with SAR reference number, names of service area(s), the request wording and deadline date for internal response.

- (i) Deadline is one calendar month after receipt of ID, although we ask for information to be sent by the service(s) one week prior to the deadline to allow us time to collate/redact files.
- (ii) Make service aware of potential 3-month extension if 'complex'.
- (iii) If there are previous responses that will help with completion of the request, then provide a copy to assist the service.
- (iv) Save instruction into Civica as 'Instruction to Service(s)'.

Services Holding Information

- The contact details for the services are listed on under SAR contacts on SharePoint.  
<http://sharepoint/FOI/Shared%20Documents/SAR%20Documents/SAR%20Contacts.docx>

Reminders to Requestors IG Assistant

- (i) We have one calendar month to send documents to an individual.
- (ii) The clock only starts once we receive ID from the requestor.
- (iii) Reminders to requestors are usually sent when we have not received ID/PR after two weeks.

- (iv) We then send another reminder after one month stating, “if we do not hear back by X date, we will close your Subject Access Request on X date”.

#### Internal Reminders IG Assistant

- (i) We send directorates a chaser email if we have not heard back from them after three weeks.
- (ii) We then send a second chaser a few days before the SAR is due and cc. their manager/AD.

#### Receiving Documents from Service IG Assistant

- (i) Create a folder in your area under SAR documents with the SAR reference no. i.e., SAR 3000.
- (ii) Add the services’ documents into folder.
- (iii) Outside of VMWare, ensure each file which isn’t in Excel format is converted to PDF using right click, then ‘convert to PDF’.
- (iv) Open Adobe Pro, ‘add’ and ‘combine’ all relevant PDF files. This creates one master binder document.
- (v) Use ‘tools’ and ‘redact’ all third-party information. Delete irrelevant pages/data. See <http://sharepoint/FOI/Shared%20Documents/SAR%20Documents/Subject%20Access%20Requests%20Adobe.pptx>.
- (vi) Save final redacted copy.

#### Send Documents to Requestor IG Officer

- (vii) Once we have collated and redacted the SAR onto one document (master copy), we send our SAR response to the requestor’s email address.
- (viii) Attach document (PDF) to email.
- (ix) In the subject line, add ‘#secure#’ followed by the SAR reference number and response.
- (x) Adding #secure# encrypts the document and allows the receiver to access it via a secure route. They are sent a one-time passcode for their own personal access.
- (xi) If the SAR file size is too large (over 20mb), Outlook will not allow us to send the email including the attachment.
- (xii) In this case, we use ‘Egress’, which allows us to send larger files securely.

#### Refusing a SAR IG Officer

If an exemption applies, you can refuse to comply with a SAR (wholly or partly). Not all exemptions apply in the same way and each exemption should be used in the correct way for that particular request.

You can also refuse to comply with a SAR if it is:

- manifestly unfounded; or
- manifestly excessive.

ICO guidance states: “A request may be manifestly unfounded if:

*The individual clearly has no intention to exercise their right of access. For example, an individual makes a request, but then offers to withdraw it in return for some form of benefit from the organisation; or the request is malicious in intent and is being used to harass an organisation with no real purpose other than to cause disruption. For example, the individual:*

- *explicitly states, in the request itself or in other communications, that they intend to cause disruption;*
- *makes unsubstantiated accusations against you or specific employees which are clearly prompted by malice;*
- *targets a particular employee against whom they have some personal grudge; or*
- *systematically sends different requests to you as part of a campaign, eg once a week, with the intention of causing disruption”.*

Aggressive/abusive language, whilst unacceptable, do not mean that the request is manifestly unfounded. If the individual has genuine intention to exercise their rights, it is unlikely that the request is manifestly unfounded.

#### Manifestly excessive requests

- Is the request clearly or obviously unreasonable?
- Is the request proportionate when balanced with the burden or costs involved in dealing with the request.

The following circumstances need to be taken into account:

- the nature of the requested information;
- the context of the request, and the relationship between you and the individual;
- whether a refusal to provide the information or even acknowledge if you hold it may cause substantive damage to the individual;
- available resources;
- whether the request largely repeats previous requests and a reasonable interval hasn’t elapsed; or
- whether it overlaps with other requests (although if it relates to a completely separate set of information it is unlikely to be excessive).

A request is not necessarily excessive just because the individual requests a **large amount of information**. Steps should be taken to clarify the request i.e., “is there a particular time period your data may be held in?”. Narrowing the SAR down by clarifying it with the requestor often helps both the requestor to receive the correct information and the service to locate information efficiently.



### Third Party Data

The DPA 2018 states an exemption that you do not have to comply with a SAR, if doing so means disclosing information which identifies another individual, except where:

- the other individual has consented to the disclosure; or
  - it is reasonable to comply with the request without that individual's consent.
- 
- Is it appropriate to disclose information relating to a third party in the case you are working on?
  - We need to balance the data subject's right of access against the other individual's rights relating to their own personal data. If the third-party consents, it is not unreasonable to do so. However, if there is no consent, you must decide whether disclosure is reasonable or not.

### Health Data

<https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

- Defined as personal data relating to the physical or mental health of an individual including the provision of health care services, which reveals information about their health status.
- Health data should not be disclosed if it is likely to cause serious harm to an individual.

There is an exemption from the right of access for health data if the data is:

- processed by a court;
- supplied in a report or given to the court as evidence in the course of proceedings; and
- certain specific statutory rules apply to those proceedings that allow the withholding of the data from the individual it relates to.

Legal Professional Privilege (Schedule 2, Part 4, Paragraph 19 of DPA 2018).

[Data Protection Act 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Personal data is exempt from the right of access if it consists of information:

- to which a claim to legal professional privilege (or confidentiality of communications in Scotland) could be maintained in legal proceedings; or
- in respect of which a professional legal adviser owes a duty of confidentiality to his client.

Legal professional privilege is only available for communications that are:

- confidential in nature;
- except where litigation is in contemplation, made solely between client and professional legal adviser acting in a professional capacity; and
- made for the main purpose of obtaining or providing legal advice or being used by lawyers in possible or probable litigation.

### Crime and taxation: general

This exemption is made up of two parts. Firstly, personal data processed for crime and taxation-related purposes is exempt from the right of access. These purposes are:

- the prevention or detection of crime;
- the apprehension or prosecution of offenders; or
- the assessment or collection of a tax or duty or an imposition of a similar nature.

The exemption applies only to the extent that complying with a SAR is likely to prejudice the crime and taxation purposes set out above.

### Crime and taxation: risk assessment

Personal data is exempt from the right of access if it is in a classification applied to an individual as part of a risk assessment system.

We must operate the risk assessment system, for the purposes of:

- the assessment or collection of a tax or duty or an imposition of a similar nature; or
- the prevention or detection of crime or the apprehension or prosecution of offenders, where the offence involves the unlawful use of public money or an unlawful claim for payment out of public money.

The exemption only applies to the extent that complying with a SAR would prevent the risk assessment system from operating effectively.

### Journalism, academia, art and literature

#### [Data Protection Act 2018 \(legislation.gov.uk\)](https://legislation.gov.uk)

Personal data is exempt from the right of access if you process it for:

- journalistic purposes;
- academic purposes;
- artistic purposes; or
- literary purposes.

Together, they are known as the 'special purposes'.

The exemption only applies to the extent that:

- as controller for the processing of personal data, you reasonably believe that compliance with a SAR would be incompatible with the special purposes (this must be more than just an inconvenience);
- the processing is being carried out with a view to the publication of some journalistic, academic, artistic or literary material; and
- you reasonably believe that the publication of the material would be in the public interest, taking into account the special importance of the general public interest in freedom of expression, any specific public interest in the particular subject, and the potential to harm individuals.

## SAR Process Guide May 2023

When deciding whether it is reasonable to believe that publication would be in the public interest, you must (if relevant) have regard to the:

- BBC Editorial Guidelines;
- Ofcom Broadcasting Code; or
- Editors' Code of Practice.

### Confidential references

Organisations may give or receive references about an individual. The personal data included in a confidential reference is exempt from the right of access for the purpose of prospective or actual:

- education, training or employment of an individual;
- placement of an individual as a volunteer;
- appointment of an individual to office; or
- provision of any service by an individual.

The exemption applies regardless of whether you have given or received the reference.

### SAR Spreadsheet

- SARs are recorded onto a SAR spreadsheet in Excel which helps us to keep track of all ongoing SARs.
- The SAR spreadsheet is located in SharePoint – Shared Documents - SAR Documents <http://sharepoint/FOI/Shared%20Documents/SAR%20Documents/SARS%20OPEN%20W-C%2024%20APRIL%202023.xlsx>
- This spreadsheet is updated at the start of each week by the **IG Assistant**

SAR_Ref	Civica Ref	Applicant Name	Data Subject	Directorate	Date Received	Date ID Received	Due Date	Ext Used	Processed ID	Revised Deadline	Comments
SAR_2169	C106.14446			Childrens	06/02/2023	17/03/2023	17/04/2023	Yes	TRUE	19/06/2023	17/03/23 Instruction sent to CRM
SAR_2191	C106.14500			Childrens	01/03/2023			Yes	TRUE	05/06/2023	06/03/22 Instruction to CRM (care leaver)
SAR_2200	C106.14515			Childrens	07/03/2023	07/03/2023	07/06/2023	Yes	TRUE	07/06/2023	08/03/23 Instruction sent to CRM
SAR_2210	C106.14568			Childrens	31/03/2023	31/03/2023	02/05/2023	Yes	TRUE	03/07/2023	04/04/23 LB sent extended due date to CRM
SAR_2231	C106.14606			Childrens	14/04/2023	14/04/2023	15/05/2023	Yes	TRUE	17/07/2023	17/04/23 Instruction to CRM
SAR_2242	C106.14623			Childrens	24/04/2023	25/04/2023	25/05/2023	Yes	TRUE	25/07/2023	10/05/23 CRM cannot get in contact with subject - put on HOLD
SAR_2245	C106.14625			Childrens	25/04/2023	25/04/2023	25/05/2023	Yes	TRUE	25/07/2023	09/05/23 Instruction to CRM
SAR_2250	C106.14632			Childrens	28/04/2023	28/04/2023	30/05/2023	Yes	TRUE	07/08/2023	09/05/23 Instruction to CRM
SAR_2233	C101.1716			Adults	15/04/2023	15/04/2023			TRUE		18/05/23 SAR update sent to SD
SAR_2234	C106.14608			Childrens	18/04/2023	21/04/2023	22/05/2023		TRUE		17/05/23 Update from ██████████ will send before deadline
SAR_2237	C112.612			Council Tax/Be	18/04/2023	19/04/2023	19/05/2023		TRUE		19/05/23 LB to speak to ██████████ regarding ██████████ advice
GAR_2230	C104.2110			Housing	19/04/2023				TRUE		17/05/23 Chaser sent to subject req d.o.b and tele no.
SAR_2244	C112.615			Council Tax/Be	23/04/2023	25/04/2023	25/05/2023				16/05/23 Subject phone no. sent to CT
SAR_2213	C101.1650			Adults	21/03/2023	27/04/2023	30/05/2023		TRUE		28/04/23 Instruction to SD
SAR_2223	C112.604			Council Tax/Be	05/04/2023	24/04/2023	24/05/2023		TRUE		17/05/23 Chaser sent to Benefits/Revs
SAR_2243	C109.444			Education;-	23/04/2023	16/05/2023	16/06/2023		TRUE		16/05/23 Subject clarified request , instruction sent to services
SAR_2246	C106.14628			Childrens	27/04/2023				FALSE		15/05/23 ID Reminder sent If no response by 30/05/23 - CLOSE FILE
SAR_2247	C106.14629			Childrens	24/04/2023				FALSE		15/05/23 ID Reminder sent If no response by 30/05/23 - CLOSE FILE
SAR_2248	C106.14630			Childrens	27/04/2023				FALSE		15/05/23 ID Reminder sent If no response by 30/05/23 - CLOSE FILE
SAR_2249	C106.14631			Childrens	28/04/2023				FALSE		15/05/23 ID Reminder sent If no response by 30/05/23 - CLOSE FILE
SAR_2251	C106.14633			Childrens;#Ed	02/05/2023				FALSE		07/05/23 Requested ID and scope of request
SAR_2253	C106.14639			Childrens	04/05/2023				FALSE		04/05/23 Requested ID and consent (delivery failure - tried number but no success)
SAR_2254	C106.14644			Childrens;#Ed	10/05/2023				FALSE		11/05/23 Requested ID
SAR_2255	C101.1758			Adults	10/05/2023				FALSE		16/05/23 Advice to ██████████ we need correct LPA as subject cannot consent
SAR_2256	C118.990			Chief Exec's;#I	13/05/2023				FALSE		15/05/23 ID requested

### SAR Spreadsheet Colour Key

	Extended
	Ongoing
	Awaiting ID
	Overdue

## **Requesting ID**

Dear Name

Thank you for your Subject Access Request under Article 15 of GDPR, this has been logged under the reference **SAR XXXX**.

I need to be sure that I am disclosing your personal data to the right person, so I would be grateful if you could provide the following **two** forms of identification, one from each of the following:

*Acceptable proof of identity:*

- Current passport
- Current photo driving licence (full or provisional)
- Other photo ID

*Acceptable proof of current address:*

- Utility bill (last three months)
- Council tax bill (current year)
- Bank statement (last three months)
- Other official documentation (last three months)

Please try and send the documents encrypted via a secure system.

Kind regards,

**Information Governance Assistant**

**Acknowledgment of ID received (and date to requester)**

Dear Name

Thank you for providing the necessary documentation to begin processing your request. I have forwarded your request to NAME OF SERVICE who will respond directly to you.

The Council has one month to comply with your request, so you should expect to receive the information no later than DATE, although it may be sooner. If we require an extension to this time limit, we will write to you to advise you of this before that date.

In the meantime, if you have any queries, please let me know.

Kind regards,

**Information Governance Assistant**

**Instruction to Service**

Dear NAME OF SERVICE

We have received a Subject Access Request, ref **SAR XXX** as follows:-

**Data Subject:** .....

**DoB:** .....

**Address:** .....

**Email:** .....

**Phone:** .....

Address, etc has been verified.

Detail of request entered here

The deadline is **DATE**

Regards

IG Assistant

## 8.6 Stage 2 Complaints

### 8.6.1 Responsibility for Investigating Complaints

The Council's formal corporate complaints procedure has provision for complaints to be reviewed internally at two stages. Complaints are initially investigated at Stage 1 by the Assistant Director, or a senior manager, from the service area against which the complaint has been raised. If the complainant is not happy with the Stage 1 response, or how the complaint has been handled, then the complaint will be escalated for investigation at Stage 2.

All Stage 2 complaints, other than those relating to Adult Social Care, Children's Services, Education, Members, and those which fall under other statutory complaints procedures, are referred to the Internal Audit Team for investigation by the Principal Auditor (Complaints) and Auditor (Complaints).

### 8.6.2 Complaint Investigation

The role of the investigating officer is to determine whether:

- The original complaint was investigated thoroughly, objectively and honestly,
- The conclusions reached were based on evidence obtained,
- The response was reasonable, appropriate and tried to achieve resolution.

The approach to be taken when investigating a complaint includes the following:

- Review all relevant correspondence and records relating to the complaint.
- Consider any relevant legislation, statutory guidelines and Council policies/procedures.
- Contact the complainant if further clarification is required on the detail of the complaint.
- Raise enquiries and obtain any additional information required from the service.
- Determine whether the Council has been at fault and if this caused injustice to the complainant.
- Consider the findings of the Stage 1 investigation and any remedial action already undertaken.
- Where it is considered that further action is required, liaise with senior managers within the service, to agree on the appropriate remedy and corrective action that should be taken, as well as any other improvements that can be made to prevent a similar occurrence going forward.
- Issue a formal response to the complainant, clearly reporting the findings and outcome of the investigation.
- Provide a copy of the complaint response and a completed "Corrective Action Form" to the Complaints Team.
- If any issues are identified which highlight fundamental concerns regarding systems or control processes, which may require further review by Internal Audit, these should be reported to the Chief Internal Auditor and appropriate Audit Manager.

### 8.6.3 Timeframe for Investigation

The aim is to respond to Stage 2 complaints within 15 working days of receipt of the complaint. However, if this is not possible then a holding letter will be issued advising of the delay and the expected date that a full response will be provided.

### 8.6.4 Ombudsman

Following the outcome of the Stage 2 investigation, if the complainant remains unhappy with the response, or the way in which their complaint has been handled, then they can ask the relevant Ombudsman to review the Council's investigation of their complaint.

For Council tenants reporting concerns regarding housing related matters, these complaints are reviewed by the Housing Ombudsman. All other complaints about services provided by the Council are investigated by the Local Government & Social Care Ombudsman.

If a complaint has been escalated to the Ombudsman, the Ombudsman may write to the Council with queries regarding the background of the complaint and the outcome of the Council's investigation. The service area would usually provide the required response although, the Principal Auditor may be asked to provide additional comments if there are any questions regarding the Stage 2 investigation. The Council's Complaints Team is responsible for liaising with the Ombudsman and co-ordinating the response to them.

If the Ombudsman finds the Council to be at fault and recommends remedial action, then the service area is responsible for responding to the findings and confirming agreement with the recommendations. However, the Principal Auditor (Complaints) will consider the findings and provide feedback to the service area if necessary.

#### ***8.6.5 Retention of Documentation***

Any evidence or information used when determining the outcome of the investigation should initially be retained to support the decision made. This may be requested by the Ombudsman as part of their investigation.

The Council's complaints procedure advises that that Council will only keep complainant's information electronically for 2 years, unless the complainant or issue is of a serial or unfinished basis, and that hard copies will be destroyed after 6 months.



# Corporate Complaints

# What is a complaint?

There will be occasions when we fail to meet our customers' expectations and we should always try to resolve them informally and as quickly as possible.

Confirm with them what the problem is and how they would like it to be resolved. Try to resolve the problem and check with them that they are happy with the resolution.

If a complaint needs more investigation, we need to follow a more formal process.

Our definition of a complaint is:

***“When you tell us that a Council service you expected either wasn't delivered at all, or wasn't delivered to your satisfaction.”***

# Informal enquiry

The corporate complaints team triage all enquiries received and will always try to give the service the chance to resolve the complaint informally and on the spot.

## **Complaints team responsibilities**

Informal complaints are assigned to the service via email and send an acknowledgment email to the customer advising them that their complaint will be dealt with and responded to within 10 working days

## **Service Responsibilities**

Confirm with the customer what the problem is and how they would like it to be resolved.

Try to resolve the problem and check with them that they are happy with the resolution.

Adhere to the 10 day deadline

# Stage one complaints

## **Corporate complaints team responsibilities**

Assign the Stage one to the correct Assistant Director via email and advise the service of the deadline date and send an acknowledgement to the customer

## **Service Responsibilities**

If the complaint has been received directly by your service, then you will need to email the details to the 'Complaints' mailbox.

An appropriate Manager or Assistant Director will be asked to look into the complaint and send a response within 10 working days – or send a holding letter telling the complainant why there is a delay, and when to expect a response

You should always use the Council's standard paragraphs in any response you send, which advise the complainant at what stage their complaint has been dealt with, and how they can escalate it if they are not happy with the response.

A copy of all responses should be sent to the 'Complaints' mailbox for recording and monitoring purposes.

# Stage two complaints

If we 'get it right' first time, then there should be no need for a complaint to be escalated. However, there will be occasions when a complainant is not happy with the response they received, or are unhappy with how their complaint was handled.

The complaint should then be escalated to Stage 2 of the Council's complaints procedure. The closing paragraph in the Stage 1 response letter will tell the complainant how to do this – by contacting the Complaints and Information Team, explaining why they are unhappy.

The team will log it as a Stage 2 complaint on the Council's corporate complaints system and will acknowledge it. If the request for escalation has been received directly by your service, then you will need to email the details to the 'Complaints' mailbox.

Stage 2 complaints are investigated by an independent Senior Officer nominated by the Chief Executive. The Senior Officer will carry out a full review of the original investigation, including liaising with the stage 1 investigating officer. The Senior Officer will send a response within 15 working days – or send a holding letter telling the complainant why there is a delay, and when to expect a response.

At both these stages, investigating officers will ensure that:

- The complaint was investigated thoroughly, objectively and honestly;
- The conclusions reached are based on evidence obtained; and
- The response was reasonable, appropriate and tried to achieve resolution.

# Local Government Ombudsman

If the Council's full complaints procedure has been followed, and the complainant is still unhappy with the response to their complaint, they have the right to complain to the Local Government Ombudsman.

You should use the Council's standard paragraphs which advise the complainant at what stage their complaint has been dealt with, and gives the contact details for Ombudsman.

Thank you  
for listening

Any Questions?



# Customer Services

## How to deal with complaints- Staff guidance

Version history  
Version 1- March 2021

### Contents

Contents	Page

### Complaints:

Resolve them quickly  
+  
Apply the learning from them  
=  
**Better services**  
=  
**More satisfied customers**  
=  
**Fewer complaints**





## How do you feel...

...when someone complains about your work or the service you provide?

Criticised?

Blamed?

Challenged?

Threatened?

Annoyed at having to spend time on a “difficult” customer when you had planned to do something else?

These reactions are only to be expected. It is quite natural to react defensively or try to put up barriers. But that often makes the situation worse.

It’s not an acceptable strategy for a Council that aims “to place the customer at the heart of everything we do”.

This guidance aims to show how we can use complaints to satisfy our customers, improve services and make work more fulfilling.

The important thing here is that “fewer complaints” should arise as a result of “more satisfied customers” and not from attempts to minimise complaints by constructing barriers to them. This may mean that complaints will go up before they come down.

But research suggests only a tiny minority of dissatisfied customers actually complain – so we should actively seek and welcome more feedback

### Research shows the following

- For every customer complaint there are 26 other unhappy customers who have remained silent – *Lee Resource*.
- 96% of unhappy customers don’t complain, however 91% of those will simply leave and never come back – *1Financial Training services*.
- A dissatisfied customer will tell between 9-15 people about their experience. Around 13% of dissatisfied customers tell more than 20 people. – *White House Office of Consumer Affairs*
- Happy customers who get their issue resolved tell about 4-6 people about their experience. – *White House Office of Consumer Affairs*.



### Our customers want

□

- To be able to complain without being inconvenienced
- Someone to listen – to tell my problem to
- Someone to say sorry
- Someone to explain why it went wrong
- Someone to sort it out
- A named contact who will keep them informed about progress
- To make sure it doesn't happen again/to anyone else

### We need to offer

- Open & easy access to complaints process
- A joined-up consistent approach – including services/contractors
- A positive attitude to complaints
- A culture that empowers staff to sort things out – and to say sorry
- Trained and motivated staff
- A system for recording and learning from customer feedback

### Research report for Housing Ombudsman

“Complaints can no longer be seen as a necessary evil of our day-to-day business but as a means of improving the ways in which we work”

“Complaints are a vital means of getting unsolicited feedback about service delivery”

“They are a valuable resource for improving services at the point of delivery and a focus for training staff and maintaining good relations with customers”



## Who can complain and how?

Our complaints procedure is available to anyone who lives or works in Wigan and receives one or more of our services.

The procedure is also available to any individual acting on behalf of and with the consent of the complainant e.g. a nominated relation/friend, advocate, professional advisor, Local Councillor or Member of Parliament.

We want to make the complaints procedure accessible to everyone. A complaint can be *written or oral* and customers can complain:

- by using the on-line form via the website ([www.wigan.gov.uk](http://www.wigan.gov.uk))
- by e-mail ([complaints@wigan.gov.uk](mailto:complaints@wigan.gov.uk))
- by phone 01942 827607
- in writing
- in person at a Life Centre or Library

We do not insist that complaints are put in writing.

## Making a Complaint

We aim to provide high quality services at all times. To improve standards, we want to know if a resident thinks we have got things wrong. Some of our services have their own complaints procedures, so if a complaint is in relation to any of the following, the Corporate Complaints team will need to direct the resident to our webpage.

- Complaints about Councillors (see our webpages regarding Councillor complaints)
- Complaints about schools (see our webpages about complaining about schools)
- Complaints about Adult Social care (see our website about complaining about adult social care), If these come through to the Complaints mailbox please forward to REDACTED and REDACTED
- Complaints about children's social care (see our webpages about complaining about children's social care), if these come through to the complaints mailbox please forward to REDACTED
- Complaints about Council Housing repairs (see our webpages about complaining about children's social care), if these come through to the complaints mailbox please forward to Housing- Customer Care.

Some services have appeal processes and complainants maybe advised that they need to appeal rather than follow the complaints process, these include Blue Badge appeals, Housing Benefit appeals, planning application appeals.

All complaints are dealt with in the strictest of confidence and any personal information is stored in accordance with the General Data Protection Regulation. This means that your information will only be shared with the relevant professionals in order to investigate the nature of your complaint.

## Our Complaints Procedure

### First Contact - Service Request, Enquiries or Informal Complaint

We get a number of enquiries where people don't actually want to make a complaint, they just haven't found out how to raise the query. Examples of these are

- How do I request a housing repair on my council owned house?
- When is my next bin collection? -
- How long does a planning application take?
- How do I apply for a parking permit?

These do not need to be logged as formal complaints and we can simply send over to the service and ask them to respond directly to the resident.

Some residents will raise a complaint without giving the service a chance to rectify their issue. We are currently working on improving our webform and acknowledgments to ensure that the resident is aware that their enquiry is being dealt with as a Service request/informal complaint.

The webpage reads as follows.

#### How to make a complaint

Please use our online form below to make a complaint.

Please be aware that the service may be given the opportunity to try to resolve your complaint informally, where appropriate, if the issue has not previously been raised with them.

- [Online complaints form](#)

Requests for service provision and defect reports (e.g. reporting a faulty streetlight). When a member of the public first makes a request for a service it is not a complaint. However, the request does become a complaint if the person makes contact again to inform us that the service requested was either not performed, not performed to their expectation, or not delivered within the specified timescale.

There are circumstances where the resident has not previously reported an issue but due to the nature of their complaint we would log as formal complaint.

Examples of this are

- Serious ASB
- Serious neglect of duties
- Accusations about a Wigan Council employee



## Formal Stage One Complaints

The Wigan Council definition of a complaint is:

***“An expression of dissatisfaction, however made, about the standard of service, actions, or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.”***

Complaints which come under this complaint’s procedure include:

- A failure to provide a requested service or a mistake in the way we provided a service
- A failure to meet our targets or delay in providing a service
- A fault has been reported but no action, or the wrong action, has been taken
- A failure to act in a proper way
- An unfair service has been provided
- An informal response has failed to resolve an issue
- Matters of Council Policy

Complaints at Stage 1 will be investigated by a Head of Service, or appropriate Manager, from the service the resident has complained about.

We will acknowledge the complaint on receipt to confirm to the resident our understanding of the complaint and provide a reference number. We will assign to the correct service and email them the relevant documents (full process is found later in the guide) The service will then try to provide a full response within 10 working days of receipt of the complaint. If this is not possible, the service will write to the resident to let them know why there is a delay, and the estimated time it will take to provide a full response. This is known as a holding letter and a copy must also be sent to the complaints team for our records. The full response will advise them how to progress to Stage 2 if they are still unhappy.



## Formal Stage Two Complaints

A resident can ask us to review their complaint at Stage 2 if:

- They are unhappy with how your complaint was handled at Stage one
- They are unhappy with the response you have received.

We need to know which part of the complaint they feel wasn't handled well, and what action they would like to be taken.

Stage 2 complaints are investigated by one of our independent Senior Officers appointed by the Chief Executive, they will review how the complaint was dealt with.

At the end of the review, and within 15 working days of receipt of your request, the Senior Officer will write to the resident with the outcome of the investigation and any actions resulting from it.

Our Independent Officers are REDACTED and REDACTED

## Local Government Ombudsman (LGO)

If a complaint has progressed through both stages of the council's complaints procedure, and the resident is still not happy with our response, they can ask the Local Government Ombudsman to review our investigation.

The Local Government Ombudsman is an independent body, whose purpose is to provide impartial and prompt investigation and resolution of complaints of injustice through maladministration by local authorities.

**Note:** The Ombudsman is unlikely to investigate your complaint unless you have given us the opportunity to consider your complaint under our procedures.

### Our Promise

- Your complaint will be received positively, however you make it
  - We will carry out impartial and confidential investigations
- We will make sure that our staff are trained to handle complaints effectively and will try to deal with your complaint at the first point of contact where we can
- When we have got it wrong, we will apologise and put things right where we can
  - We will respond to your complaint within the timescales outlined below
  - We will keep you updated on progress, and tell you what will happen next
    - We will tell you how we make our decisions
- We will learn from what you tell us and use your feedback to improve our services

### Training

Please take some time to research our Complaints pages on the Wigan.gov website including how to make complaints for the services listed on page 4.

View our Corporate complaints procedure

Open the link to the Ombudsman website and view the 'how to make a claim page' and find Wigan Councils statistics and see how we compare to other GM Authorities.

Sign up for their news letter



## Dealing with Complaint phone calls

We often receive informal comments and queries about the services we provide via our complaint phoneline. Often these may be reports of problems or requests for a service. It is not appropriate for every such query from a member of the public to be treated as a complaint. In general comments or queries should be dealt with immediately either by providing information, instigating the appropriate action or explaining a decision.

### Practical Steps

In many cases the problem will be resolved if this advice is followed:

- be polite, honest & sensitive
- identify yourself and give the customer a contact name and phone number
- listen carefully and make notes at the time
- summarise the query in your own words, to make sure you understand and to show that you listened
- ask what the customer would like to be done to put things right
- look at the problem from the customer's point of view
- don't jump to conclusions
- make sure the customer doesn't get passed from "pillar-to-post"
- tell the customer what they can reasonably expect you to do, what you can or can't do and the time limits
- keep the customer informed about how you are dealing with the issue
- don't delay in providing a service or information

If you can't deal with the problem tell the customer about how they can pursue the matter through the complaint's procedure and, if necessary, seek advice from your line manager.





## Our process

### Identifying the correct service

When dealing with complaints one of the most important parts of the role is identifying the correct service to assign the complaint to.

We rely on services keeping us updated with any structural changes or re-assignment of services.

The complaints team have a spreadsheet which lists most complaint types and the correct Directorate, Assistant Director, Team and contact details.

This spreadsheet can be found on Share point

REDACTED

This spreadsheet is also used for Councillor and MP enquiries.

Please note that the contact details differ for informal and formal complaints.

### Training

View our complaints service spreadsheet and research the Services on [Wigan.gov.uk](http://Wigan.gov.uk)

View the current senior management structure on the Intranet

Listen to a range of complaints calls and identify the service



## Enquiries/Informal requests/service requests

The webform featured on the council's website is sometimes used for general enquiries and 'informal complaints'

If a form has been identified as an informal complaint, please follow the instructions below.

Forward the email onto the appropriate person/service

Send from Complaints

Cc Complaints

Subject- Keep the webform ref number as the subject

Hello

Please see the web form below received in the corporate mailbox and arrange for a direct response to be provided.

The 10 day response deadline is XXXX

Thanks

**Complaints and Information Team**

**RD/CS/Add initials**

Drag the original email from the complaints mailbox into to the correct informal folder in Customer Support, drag the email to service to the same folder



## Stage 1 Formal Complaint Process

Formal Complaints are received from a variety of sources – letters, webform, email, telephone calls etc.

1. Create a customer folder, if one doesn't already exist, within **REDACTED** using the complainant's surname and address. Create subfolder called (date - Stage 1 FC).
2. Log complaint on the complaints spreadsheet and assign to the relevant department and team. Make note of the reference number
3. Using the relevant template, send an **acknowledgement** email/letter and save this in the customer folder – save as (date – acknowledgement). The email and letter acknowledgement templates are held in the folder: **REDACTED**
4. Create a service instruction email using the template. Attach any relevant documents received, the customer acknowledgment and attached a corrective action form. Complete the corrective action form with the Reference number, name, address and details of the complaint. The template corrective action form can be found in the folder: **REDACTED**
5. Forward the email to the relevant Assistant Director and cc their PA, adding any admin mailbox or other Council officer, if appropriate.
6. Send the instruction email from the Complaints mailbox, bcc Complaints and save a copy of this instruction email within the customer folder.
8. Drag all copy emails within the Complaints mailbox to Formal Complaints - Places/Resources/People as appropriate.

Make sure that all correspondence is saved within the customer folder, including all internal emails – documents usually saved with customer folder are:

- Original complaint email/webform/letter – save as (date - Stage 1)
- Corrective action form
- Instruction to AD
- Acknowledgement email/letter

If there are other correspondence, for example, emails between services, these can be filed in the formal folders under Customer support

**Stage 1 acknowledgment- Resident**

Subject – Wigan Council Complaint Acknowledgement

Our Reference: **XXXXX**

Please ask for: Complaints and Information Team

Extension: 2607

Direct line: 01942 827607

Dear \_\_\_\_\_,

Formal Complaint – Stage 1

Thank you for your complaint regarding **(nature of complaint)**. We are sorry to hear that you are unhappy with the standard of service you have received from the Council.

We have logged your complaint and passed it to a senior officer who will carry out an investigation and respond to you within 10 working days. If we are unable to provide a full response within this timescale, we will let you know the reason and tell you when we expect to complete our investigation.

Thank you for taking the time to bring this matter to our attention.

Yours sincerely,

Complaints and Information Team

RD/CS/ **Add your initials**

### Stage 1 acknowledgment- Service

Hello

XXXX rang/completed the attached webform/email to lodge a complaint about XXXX. This has been logged as a Stage 1 Formal Complaint. Details of the call are as follows:

Please arrange for the matter to be investigated and for a response to be sent in your name.

The response deadline is XXXX

Please complete and return the corrective action form, along with a copy of your response by this date.

Many thanks

Complaints and Information Team

RD/CS/ Add your initials

### The Complaints Procedure Standard Paragraphs

When providing written responses to complaints, please ensure that you include the following standard paragraphs, where appropriate:

#### Stage 1 - Opening paragraph

Thank you for your (letter/email/telephone call) regarding (nature of complaint). Your complaint has been dealt with at stage 1 of the Council's Complaints Procedure.

#### Stage 1 - Closing paragraph

If you are unhappy with this response, or are unhappy with the way your complaint has been handled, you can ask for a review of your complaint at stage 2 of our Complaints Procedure.

If you wish to do this, you can ask the Chief Executive to arrange for an independent review of your complaint by contacting the Complaints and Information Team at Wigan Council, PO Box 100, Wigan, WN1 3DS, or e-mail [complaints@wigan.gov.uk](mailto:complaints@wigan.gov.uk), stating why you want your complaint to be escalated. Arrangements will then be made for an independent senior officer to investigate your complaint and response to you direct.

## Stage 2 Formal Complaint Process

Stage 2 Formal Complaints are progressed if a previous Stage 1 complainant isn't happy with the handling or the response of the Stage 1 Formal Complaint

1. Within the customer folder REDACTED create a subfolder (Date - Stage 2 FC)
2. Log the complaint on the spreadsheet and assign to the relevant department and team
3. All stage 2 complaints are investigated by REDACTED and REDACTED, Principal Auditor, (Complaints) Create an instruction email using the template Attach the original stage 1 instruction email, response and corrective action form, together with any additional documentation relating to the stage 2. Attach and complete a stage 2 corrective action form with the CRM number, name, address and details of the complaint. The template corrective action form can be found in the folder:

REDACTED

4. Send an instruction email to REDACTED from the Complaints mailbox, bcc Complaints and save a copy of this instruction email within the customer folder – Save as (Date - inst to REDACTED).
5. Using the relevant template, send an **acknowledgement** e-mail/letter and save this in customer folder – save as “(date – acknowledgement).
6. Drag all copy emails within the Complaints mailbox to the Formal Complaints - Places/Resources/People as appropriate
7. Make sure that all correspondence is saved within the customer folder, including all internal emails – documents usually saved with customer folder are:
  - Original complaint requesting Stage 2, (Date - Stage 2)
  - Corrective action form – Stage 2
  - Instruction to AD
  - Acknowledgement email/letter
  - Folder containing Stage 1 documents: Stage 1 complaint, Stage 1 Response and Stage 1 corrective action form

## Stage 2 Formal Complaint Instruction Template - Internal

**From:** Complaints

**To:** Stage 2 complaints

**Cc:**

**Bcc:** Complaints

**Subject:** Stage 2 Formal Complaint - Name, Address

Hi Angela/Adele

In accordance with stage 2 of the Council's Corporate Complaints procedure, the above complaint has been allocated to you for an independent review.

The email/letter below/attached refers to a request from X for his/her complaint to be escalated to stage 2. The investigating officer at stage 1 was X, who can be contacted on X.

I have attached the original complaint, response letter and corrective form.

Can you please arrange for the stage 2 corrective action form to be completed and returned to the Complaints mailbox, together with a copy of your response, for our records.

The complaint has been acknowledged.

**The 15 day response deadline is X 202X.**

The link below contains information and guidance relating to the complaints procedure, however, should you require any further information, please do not hesitate to contact us.

<http://portal-wigan/C14/Corporate%20Complaints%20Procedure/default.aspx>

Many thanks

Customer Services

RD/CS/Add your initials

## Stage 2 Formal Complaint Instruction Template - Resident

Stage 2 Formal Complaint Acknowledgement email -

Our Reference: **XXXXXX**

Please ask for: Complaints and Information Team

Extension: 2607

Direct line: 01942 827607

Dear \_\_\_\_\_,

Formal Complaint – Stage 2

Thank you for your complaint regarding **(nature of complaint)**. I understand that you have asked for a review of your complaint at Stage 2 of the Council's complaints process.

The Chief Executive has asked for an independent senior officer to carry out an investigation and respond to you within 15 working days. If the officer is unable to provide a full response within this timescale, they will let you know the reason and tell you when they expect to complete their investigation.

Thank you for taking the time to bring this matter to our attention.

Yours sincerely

Customer Services

RD/CS/ **Add your initials**





## Stage 2 Formal Complaint Response

### Formal Complaint Holding Response

If a written response can not be provided within 15 working days, Stage 2 will send out a Holding Response

1. This needs to be saved in the Customer Folder and the email dragged into Formal Complaints sub-folder in Customer Support.
2. The spreadsheet should then be updated. Enter the holding response date into the Response Date field and enter '**Date - Holding Response**' into the comments field.
3. The complaint should be suspended and the reason for suspension should be "holding response sent **X** - awaiting final response and corrective action form"
4. Once the final response is received, the comments field should be amended to:  
**Date - Holding Response**  
  
**Date - Final Response**
5. The holding response date should remain in the response date field, as this date is used for the stats.

### Formal Complaint Response and Corrective Action Form

- When a copy of the response and the completed corrective action form are received, they should be saved in the customer folder, and the email dragged into the formal complaints sub-folder in the Customer Support Team mailbox.
- The spreadsheet should be updated with the response date (unless the complaint has had a previous holding response – see above) and the corrective action form details should be entered into the details field to complete the spreadsheet .



### Stage 2 - Opening paragraph

Thank you for your (letter/email/telephone call) regarding (nature of complaint). Your complaint has been dealt with at stage 2 of the Council's Complaints Procedure.

Within body of the stage 2 response :

- Confirm an understanding of all aspects of the complaint.
- How the complaint was considered – correspondence, information, documents, etc taken into account.
- Summary of what the investigation has found.
- Outcome:
  - Was the complaint investigated thoroughly, objectively and honestly?
  - Were the conclusions reached based on evidence obtained?
  - Was the response reasonable, appropriate and tried to achieve resolution?

### Stage 2 - Closing paragraph

If you are unhappy with this response, or are unhappy with the way your complaint has been handled, you have the right to refer your complaint to the Local Government Ombudsman, who can be contacted at PO Box 4771, Coventry, CV4 OEH, telephone 0300 061 0614, or visit <http://www.lgo.org.uk/making-a-complaint>.

## Complaints about employees

We deal with complaints about an employee differently dependant on who has made the complaint. Please see below;

- **Complaint from a non-council employee (member of the public) about a current employee** – log as a formal complaint and forward to the relevant Assistant Director as normal
- **Complaint from a non-council employee (employed as an agency worker) about a current employee in relation to an ongoing investigation that they have been involved in-** send a standard response and forward to Lisa Selby to be allocated to the relevant HR officer responsible for the ongoing investigation
- **Complaint from an employee about an employee** – send a standard response and forward to Lisa Selby to be allocated to the relevant HR officer to be aligned with the Grievance procedure.

As above we would only log as a formal complaint if a member of the public has made the complaint.



## Daily complaint reminders

### Reminders

On the 8<sup>th</sup> day, before the target date is due, we send a polite reminder to the Stage 1 contact(s) for that service.

1. Open the Complaints spreadsheet and look for complaints that are on the 8<sup>th</sup> day of its target date, e.g., today is 18<sup>th</sup> October, therefore you will be looking for references that are due on the 20<sup>th</sup> October.
2. Send a polite reminder email to the services, be sure to check who the officers/services the original complaint went to.
3. Bcc complaints into the email so we can file it in 'Complaint reminders' folder in CST mailbox once sent (for record purposes).
4. On the spreadsheet, in column W 'Actions to be taken', type 8<sup>th</sup> day reminder sent.

### Overdues

Everyday we check the spreadsheet for overdue complaints. We send an overdue reminder each day after it becomes overdue, until it is closed.

We do not tend to chase Stage 2 complaints unless something is out of the ordinary. Stage 2 always provide holding letters if they are not able to meet the target date. We still check that any outstanding complaints are within time. Please ask if you are unsure.

1. Open the Complaints spreadsheet and look for complaints that are overdue.
2. Send an overdue reminder email to the services, be sure to check who the officers/services the Stage 1 complaint went to. **Please ensure REDACTED is added to every overdue reminder sent.** After 3 overdue reminders have been sent, please add the AD for that service into the email.
3. Bcc complaints into the email so we can file it in 'Complaint reminders' folder in CST mailbox once sent (for record purposes).
4. On the spreadsheet, in column W 'Actions to be taken', type Overdue reminder sent (insert date).

**Polite reminder template**

Hello

Polite reminder that this com

Therefore could you please p  
copy along with the co

[complaints@wigan.gov.uk](mailto:complaints@wigan.gov.uk) as soon as possible. **If you unable to meet the deadline date then please may a holding letter be sent to the complainant, and a copy forwarded to the complaints team so we can update our records.**

Kindest regards,

**Complaints and Information Team**

**RD/CS/insert initial**

[www.wigan.gov.uk](http://www.wigan.gov.uk)  
[www.twitter.com/wigancouncil](https://www.twitter.com/wigancouncil)  
[www.facebook.com/WiganCouncilOnline](https://www.facebook.com/WiganCouncilOnline)



Confident Place, Confident People.

[Grab your reader's attention with a great quote from the document or use this space to emphasize a key point. To place this text box anywhere on the page, just drag it.]

sert date).

the deadline date and forward a the complaints mailbox –

**Overdue reminder template**

Hello

We note that we still await your complaint response and corrective action form. This complaint is now overdue. The due date is (insert date).

Therefore could you please provide a response to the complainant and forward a copy along with the completed corrective action form to the complaints mailbox – [complaints@wigan.gov.uk](mailto:complaints@wigan.gov.uk) as soon as possible. **If you require an extension then please may a holding letter be sent to the complainant urgently, and a copy forwarded to the complaints team so we can update our records.**

Kindest regards,

**Complaints and Information Team**

**RD/CS/Insert Initial**

[www.wigan.gov.uk](http://www.wigan.gov.uk)  
[www.twitter.com/wigancouncil](https://www.twitter.com/wigancouncil)  
[www.facebook.com/WiganCouncilOnline](https://www.facebook.com/WiganCouncilOnline)



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## Adult Services Complaints

Customer Relations Manager

Customer Relations Officer

Our People

Our Place

Our Future

## What do we do?

- The Customer Relations Team deals with complaints made about services delivered or commissioned by Wigan Council's Adult Services: Early Intervention, Hospital Discharge Service, Locality Teams, Provider Management and Market Development (day services, domiciliary services, care homes, supported living etc) and Finance (CASS and Direct Payments)
- We also assist in the preparation of responses to enquiries from councillors and MPs.
- It is a statutory function, and we are governed by the LA (Social Services) and NHS Complaints (England) Regulations 2009.
- NB- if the complainant funds their own care and there is no involvement from Social Services, they should refer their complaint to the provider and then to the Ombudsman if they remain dissatisfied with the outcome.
- It is expected that complaints about a provider should be dealt with in the first instance by the provider. If we commission the care, the complainant can then raise their complaint with the Council.

- Work with the operational teams to try to resolve complaints informally
- Assist in the writing of formal responses
- Liaise with the relevant teams to answer Councillor/MP enquiries on behalf of their constituents
- Respond to requests for information from the Local Government and Social Care Ombudsman and follow up actions
- Prepare Annual Reports on Adult Social Care Complaints
- Provide monthly updates to Directors/Service and Locality Managers on complaints received
- Provide training on responding to complaints and appropriate sharing of information (pending)

# Timescales for Complaints

- There is generally a 12-month timescale for people to raise a complaint. This is reckoned from the time the matter complained about occurred or the complainant became aware of this. In exceptional circumstances this timescale may be waived.
- We aim to acknowledge all complaints within 3 working days
- Where possible, the Customer Relations Team will liaise with the complainant and the operational team to try to resolve the complaint informally. There is no timescale for this.
- If logged as a formal complaint, an investigation will be undertaken and a written response from the relevant manager will be expected. The timescale for a response to Adult complaints varies from 15 working days to 30+ depending on the complexity and whether external agencies, such as care providers or the Health Authority are involved



## A Complaint Plan is not always required

- If a complaint is made verbally and is quite complex, a Complaint Plan will be prepared detailing the complaints to be addressed and the desired outcomes to ensure there is an accurate record
- A Complaint Plan will also be prepared if the written complaint is complex and/or involves several areas/teams.
- If the written complaint is clearly set out and the complaints and desired outcomes clearly stated , a Complaint Plan is not required

## What you should do if someone says they want to make a complaint

- Do not automatically refer people to Customer Relations
- Most people when they raise a complaint just want the issue resolving. If possible try to resolve the issue yourself or speak with your manager. Often things can be resolved by a manager speaking with the complainant.
- If this is not successful, the issue is complex or the person says they want to make a formal complaint, you must pass the complaint on to the Customer Relations Team, who will log the complaint, contact the complainant, prepare the necessary documentation and assign the complaint for investigation to the most relevant manager.

- In the first instance complaints are usually investigated and responded to by the first level of management (e.g. Advanced Practitioner) but on occasion it may be the Team Manager or Service Manager or even a Director whose name the response goes out in. This will depend on the severity of the issues being complained about or the amount of involvement other managers may already have had.

## What if a complaint is made about you

- If a complaint is made about you, first of all **Don't worry**. The majority of us will have had complaints made about us at some point ( managers included). It's the nature of the job.
- Even when it seems like a personal attack, try not to take the comments personally. It is often the case that complaints would have been made whoever was in that position. Sometimes you have difficult messages to convey and the complainant “shoots the messenger”.
- Remember that no-one works in isolation. You happen to be the face of the Authority in that particular instance.

# The Deal 2030



- Under legislation we are obliged to investigate complaints, and to do so objectively and with transparency, but this does not mean that we accept without question what the complainant is saying.
- We will support you through the process.
  - You have the right to have someone present in the interview to support you, but this should not be your direct line manager if you are being interviewed by someone else.
  - You will have the opportunity to view the draft complaint response and make comments before it is finalised
- If there has been any fault with practice, this will be acknowledged and the complainant will be told that necessary measures will be taken: training etc.
- If any form of disciplinary action is necessary, this will remain confidential.

**Our People**

**Our Place**

**Our Future**



- Although we are obliged in the interest of fairness, transparency and accountability to acknowledge where fault has been found and explain what measures will be taken to rectify any fault or prevent similar issues occurring in the future, we also make it clear when there has been no fault with the officer's practice, legislation and guidance have been followed and (in some cases) the complainant is being unreasonable or less than accurate with the truth (as sometimes happens)

**Our People**

**Our Place**

**Our Future**

## Investigation Process

- A formal complaint is usually assigned to the relevant manager who will undertake an investigation and provide comments on each of the points made in the complaint for inclusion in the complaint response (which may involve complaints about other areas).
- Interviews should be carried out with the officers involved with the case to obtain their views
- Case records should be examined
- The response to the complaints must be evidence-based, and a clear rationale for decisions and actions must be given in terms the complainant can understand.
- If you are providing comments to the Customer Relations Team for them to pull the response together, please make sure your comments are as detailed as possible.

## Local Government and Social Care Ombudsman

- Should the complainant remain dissatisfied after our investigation, he/she has the right to refer his/her complaint to the Local Government and Social Care Ombudsman (Adult Services) for an independent review.
- On receipt of the complaint, the LGSCO will contact the Council to check if the complaint has been through our complaints process. If not, it will be deemed a “premature referral” and will be referred back for us to investigate the complaint and provide a response. Often, at this point, the complainant is satisfied and the complaint does not progress further.
- If the complaint has been through our process, we will be asked to send a copy of the complaint response(s)



- The complaint could be closed at this point if the Ombudsman feels an investigation will achieve nothing further than has already been achieved, that the complaint does not come within their remit or that the complaint is out of timescale. People generally have 12 months to submit their complaint to the Ombudsman following the conclusion of the Council's complaint investigation.
- If the complaint is progressed to the investigation stage, the investigator will contact the Council with a request for documents and questions for the Council to answer.
- Responses to the Ombudsman are often very detailed and require lot of co-ordination to ensure all the requested documents are provided and as full a response as possible is provided to explain the Authority's actions and decisions.

- The investigator will consider all the evidence and produce a Draft Decision which will be sent to the complainant and the Council for comment
- Any comments made by both parties will be considered along with any further evidence before a Final Decision is issued.
- It is possible to challenge the Ombudsman's Draft Decision and we have done this on 2 or 3 occasions and got the decision changed.
- If the Ombudsman has found fault with the Council's practice, it will make recommendations and ask if we agree with these.
- Likely recommendations are:
  - An apology
  - Review of policy or procedure
  - Practical action to remedy the injustice
  - Reimburse quantifiable loss and related charges
  - Financial redress for time and trouble

- The Ombudsman has the powers of the High Court and we are obliged under the Local Government Act to provide all requested documentation
- Whatever documentation we send will be forwarded to the complainant so please be careful with what you are putting down in writing.
- We are not obliged to agree with the Ombudsman's recommendations, but if we do not we run the risk of being "named and shamed" in a Public Report

## Unreasonable or unreasonably persistent complainants

- Sometimes we encounter complainants who because of the nature or frequency of their contacts with the Council hinder the Council's consideration of their or other people's complaints.
- They might employ the "scatter gun" approach copying unrelated people into the email or making frequent telephone calls to a number of different teams about the same issues.
- There is a range of measures we can employ to manage this behaviour: managed mailbox, limiting calls to one person, accepting communication in written format only, banning access to buildings without an appointment....
- REDACTED

- In addition to dealing with complaints, we also record and report on compliments
- Although we generally refer to “compliments”, these can be any expression of appreciation or thanks provided verbally, by email as well as by the occasional thank you card
  - You can log compliments yourself on Mosaic using the Start button on the Person Summary Screen. If the person is not on Mosaic or the compliment is from a partner agency/colleague rather than from the individual or family, please send the compliment to me for logging in a separate table.
  - Any special compliments will be reported on in the monthly updates to DMT and in the Annual Report, so please send any that really stand out to Customer Relations as well



 Write to us:

- Customer Relations Team – Adult Services
- Wigan Council
- PO Box 100
- WN1 3DS

•  Email:

- [CustomerRelations-Adults@wigan.gov.uk/REDACTED](mailto:CustomerRelations-Adults@wigan.gov.uk/REDACTED)

 Web: <http://www.wigan.gov.uk/Council/Contact-us/Adult-social-care.aspx>

-  Telephone: Adults Complaints Line- 01942 486175

# Getting the Best from Complaints

## Social Care Complaints and Representations for Children, Young People and Others

*Change for Children – Every Child Matters*

## Ministerial Foreword

The Government's key message from *Every Child Matters: Change for Children* is that we are all working together so that every child and young person is able to achieve better outcomes and that those who are facing problems and challenges are well supported to overcome them.

*Getting the Best from Complaints* provides guidance for local authorities on implementing the new Children Act 1989 complaints procedures for children and young people with an emphasis on resolving problems quickly and effectively and learning from them.

We all want to improve the access children and young people have to all the public services on offer to them and to improve the standards that they can expect – an effective complaints procedure will ensure that their voices are heard and that as a result, service delivery will improve.

The new procedures build on the extensive good practice that has been developed across services, local authorities and regions and we have listened to what works and how children and young people think the process can work better for them.

As a complaints profession, you have demonstrated commitment and dedication to helping us getting this process right through various consultations mechanisms. I am confident that when you implement these procedures we will achieve significant headway in improving the outcomes for an all too often compromised group of children and young people.

PARMJIT DHANDA

Parliamentary Under Secretary of State for Children, Young People and Families



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Diagram – The Complaints Procedure

### **Appendix B**

Complaints Working Group

# 1 INTRODUCTION TO THE NEW ARRANGEMENTS

## 1.1 Summary

1.1.1 This guidance sets out changes to the children's social services representations procedure as a result of the Children (Leaving Care) Act 2000, Adoption and Children Act 2002 and the Health and Social Care (Community Health and Standards) Act 2003. It applies to England only.

1.1.2 This guidance accompanies *The Children Act 1989 Representations Procedure (England) Regulations 2006*. References to these regulations are made in brackets throughout the text. The Regulations revoke and replace the *Representations Procedure (Children) Regulations 1991* and this guidance replaces that contained in *The Children Act 1989 Guidance and Regulations Volume 3 – Family Placements* and *Volume 4 – Residential Care* (Department of Health, 1991).

1.1.3 This guidance is for representations, including complaints, made by children and young people. It also applies to parents, foster carers and other adults making a complaint. Throughout the guidance the term children and young people is used when referring to the complainant, however this term includes adults making a complaint about services to a child. Where "he" is used, it refers equally to he or she.

1.1.4 This guidance builds on messages from the report of the Waterhouse inquiry, *Lost in Care*, which cited many examples of children who had attempted to complain but whose voices had not been heard. *Every Child Matters: Change for Children* sets out the Government's agenda for improving outcomes for every child. It is also about making sure vulnerable children and young people get the help they need, when they need it, however large or small their complaint. This guidance follows the core principles of the UN Convention on the Rights of the Child and *Every Child Matters: Change for Children* which puts children's views and wishes at the forefront of the decision-making process.

1.1.5 The Regulations and guidance have been drawn up following a public consultation in November 2004 (*Getting the Best from Complaints – Consultation on the Changes to Social Services Complaints Procedures for Children, Young People and Other People Making a Complaint*) and since then, further detailed consultation with a broad range of stakeholders including children and young people, complaints officers in local authorities and from the National Complaints Officers Group, the Commission for Social Care Inspection, voluntary organisations, the Local Government Ombudsman, the Local Government Association and the Association of Directors of Social Services.

1.1.6 The Department of Health's *Learning from Complaints* - guidance on the social services complaints procedure for adults - should be read in parallel (please see [www.dh.gov.uk](http://www.dh.gov.uk)).

## 1.2 Other helpful information:

1.2.1 It is recommended that this guidance is read alongside other appropriate guidance and standards including:

- *National Minimum Standards*, published by the Secretary of State under the Care Standards Act 2000.
- *Performance Assessment Standards*, published by the Department of Health.
- *Learning from Complaints*. Department of Health, 2006.

- *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children.* HM Government, April 2006.
- *Children's Views on Complaints Procedures and Advocacy: Report of the Children's Rights Director,* National Care Standards Commission, 2003.
- *"Getting the Best from Complaints" the Children's View:* Children's Rights Director, Commission for Social Care Inspection, 2005.
- *Independent Reviewing Officers Guidance, Adoption and Children Act 2002: The Review of Children's Cases (Amendment)(England) Regulations.* Department for Education and Skills, 2004.
- *Get it Sorted: Providing Effective Advocacy Services for Children and Young People making a Complaint under the Children Act 1989.* Department for Education and Skills, 2004.
- *Get it Sorted: Getting help if you have a problem.* Young People's Guide to Advocacy Guidance. Department for Education and Skills, Voice for the Child in Care / The Who Cares? Trust, 2004.
- *National Standards for the Provision of Children's Advocacy Services.* Department of Health, 2002.

1.2.2 Useful relevant websites to this guidance include:

Children's Commissioner:	<a href="http://www.childrenscommissioner.org">www.childrenscommissioner.org</a>
Children's Rights Director:	<a href="http://www.rights4me.org">www.rights4me.org</a>
Commission for Social Care Inspection:	<a href="http://www.csci.org.uk">www.csci.org.uk</a>
Every Child Matters:	<a href="http://www.everychildmatters.gov.uk">www.everychildmatters.gov.uk</a>
Department for Education and Skills:	<a href="http://www.dfes.gov.uk">www.dfes.gov.uk</a>
Department of Health:	<a href="http://www.dh.gov.uk">www.dh.gov.uk</a>
Local Government Ombudsman:	<a href="http://www.lgo.org.uk">www.lgo.org.uk</a>

### 1.3 Impact on local authorities

1.3.1 The new Regulations come into effect on 1 September 2006. This document is issued as Section 7 Guidance under the Local Authority Social Services Act 1970, which requires local authorities to act under the general guidance of the Secretary of State. Only in exceptional circumstances may local authorities justify a variation.

1.3.2 Transitional arrangements for complaints in progress at the time the new Regulations come into force are set out in regulation 24. For example, where a complaint reaches the end of Stage 2 under the former procedures and the complainant then requests Stage 3, as long as the panel is yet to be appointed, the Stage 3 Review Panel should be provided under the new Regulations.

### 1.4 Why are we introducing the new Regulations?

1.4.1 Section 117 of the Adoption and Children Act 2002 amends sections 24D and 26 of the Children Act 1989 by giving a power to make regulations which:

- allow for an initial resolution stage without involving an Independent Person;
- extend the scope or application of the Children Act 1989 procedure to services provided under Part IV (Care and Supervision) and Part V (Protection of Children) of that Act; and
- impose time limits for the making of representations.

1.4.2 The Adoption and Children Act 2002 also inserted a new section 26A into the

Children Act 1989, which requires local authorities to make arrangements for the provision of advocacy services to children and young people making or intending to make representations, including complaints, under section 26 or section 24D of the Children Act 1989.

## 1.5 Key principles

1.5.1 A good procedure should ensure that children and young people who make representations have their concerns resolved swiftly and, wherever possible, by the people who provide the service locally. The complaints procedure should be a useful tool for indicating where services may need improving. It is a positive aid to inform and influence service improvements, not a negative process to apportion blame.

1.5.2 Local authorities should develop a listening and learning culture where learning is fed back to children and young people who use services – and fed into internal systems for driving improvement. The same listening and learning culture should shape wider opportunities for working in partnership with children and young people, such as individual reviews and systematic quality assurance. It should give children and young people opportunities to tell the local authority about both their good and bad experiences of the service.

1.5.3 The following principles are drawn from ideas developed by the Welsh Assembly Government and based on service users' experiences. Meeting these principles should assist local authorities in providing a successful complaints procedure to children and young people.

1. The complaints procedure should be clear and easy to use.
2. It should ensure that the people who use the service are treated with dignity and respect, are not afraid to make a complaint, and have their concerns taken seriously.
3. It should ensure, as far as is possible, even-handedness in the handling of complaints.
4. It should ensure that any concerns about the protection of children are referred immediately to the relevant social services team or to the Police.
5. It should make sure that as many complaints as possible are resolved swiftly and satisfactorily at the local level.
6. It should ensure a fair process and adequate support for everyone involved in the complaint.
7. It should ensure that the child or young person receives a full response without delay.
8. It should enable any local authority purchasing services in the independent sector, to exercise its continuing duty of care.
9. It should secure sensible and effective links with other procedures in local government.
10. It should safeguard the child or young person's rights of access to other means of redress, such as the Local Government Ombudsman.

11. It should ensure that local authorities monitor their performance in handling complaints, deliver what they have promised, learn from complaints and use this learning to improve services for everyone who uses them.

## **1.6 The Complaints Manager**

1.6.1 The Regulations require local authorities to designate an officer, known as a Complaints Manager, to undertake certain functions. However, this does not mean that one person is responsible for carrying out all actions. The role of Complaints Manager should meet the existing role of Designated Complaints Officer, as set out in previous guidance.

1.6.2 Every local authority should ensure that the Complaints Manager has sufficient clarity of purpose and authority to enable complaints to be dealt with swiftly and effectively. It is recognised that the variety and level of responsibilities for Complaints Managers may differ depending upon local structures. Annex 1 sets out key tasks which a Complaints Manager might be given responsibility for.

1.6.3 The Complaints Manager should be independent of operational line management and of direct service providers (e.g. children's social work). Issues around possible 'conflict of interest' need to be considered when organising local structures.

1.6.4 Complaints Managers should be sensitive to the particular challenge of regular involvement with children and young people who are likely to be distressed or angry. The Complaints Manager should also take an active role in facilitating resolution of complaints by identifying appropriate colleagues and external people (including Investigating Officers and advocates) to contribute to complaints work. The Complaints Manager should also foster good working relationships with key bodies and partner agencies.

## **2 SCOPE OF THE REPRESENTATIONS AND COMPLAINTS PROCEDURE**

### **2.1 Defining representations and complaints**

2.1.1 The Children Act 1989 defines the representations procedure as being for 'representations (including complaints)'.

2.1.2 The intention of this guidance is to describe a statutory procedure for a child or young person who is likely to want to make representations, including complaints, about the actions, decisions or apparent failings of a local authority's children's social services provision; and to allow any other appropriate person to act on behalf of the child or young person concerned or make a complaint in their own right (see section 2.6). Complaints of a general nature which are not concerned with an individual case are also likely to fall outside the statutory definition, as are anonymous complaints.

2.1.3 A complaint may be generally defined as an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response. Children and young people often express complaints as 'problems not being sorted out'. A common theme amongst children and young people is the need for complaints procedures to be both fast and effective: complaints procedures should 'get it sorted' straight away.

2.1.4 Representations may not always be complaints; they might also be positive remarks or ideas that require a response from the local authority. Enquiries or comments about the availability, delivery or nature of a service which are not criticisms are likely to constitute representations, for example, children and young people should be able to put forward ideas or proposals about the service they receive, or the establishment they live in, without having this framed as a complaint.

2.1.5 Representations should, as far as possible, be sought out and welcomed as a measure of satisfaction. Representations that are not complaints should also be recorded and handled in the first instance locally (Stage 1). The local authority should ensure that it responds to the issues raised, setting out what action should be taken. Local authorities should make children and young people aware of how they may make representations to the local authority and that they do not have to be complaints. The child or young person has the same right to advocacy whether the representation is a complaint or not.

2.1.6 When the representation is not a complaint and the local authority fails to respond to the child or young person's satisfaction, he will then be entitled to make a complaint at Stage 1 about this failure.

### **2.2 What may be complained about?**

2.2.1 Section 26(3) of the Children Act, 1989 provides that all functions of the local authority under Part 3 of the Act may form the subject of a complaint. For example, a complaint may arise as a result of many things relating to statutory social services functions such as:

- an unwelcome or disputed decision;
- concern about the quality or appropriateness of a service;
- delay in decision making or provision of services;
- delivery or non-delivery of services including complaints procedures;
- quantity, frequency, change or cost of a service;

- attitude or behaviour of staff;
- application of eligibility and assessment criteria;
- the impact on a child or young person of the application of a local authority policy; and
- assessment, care management and review.

However, this is not an exhaustive list and the Complaints Manager should seek legal advice as necessary.

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

Part 4 of the Children Act, 1989,

- the decision by the local authority to initiate care and supervision orders (section 31);
- the effect of the care order and the local authority's actions and decisions where a care order is made (section 33);
- control of parental contact with children in care (section 34);
- how supervisors perform their duties where a supervision order is in force (section 35);

Part 5 of the Children Act, 1989,

- matters that do not relate to the Court and which are specifically actions of the local authority can be considered, regarding applications for and duties in relation to child assessment orders (section 43); and
- matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed (section 44).

2.2.3 Where social work information or a social work report has gone to Court, the child or young person can make a complaint about the report, for example its quality or accuracy, distinct and separate to the subsequent actions of the Court. If this complaint is upheld, the local authority should advise the child or young person what action it proposes to take with regard to the Court action.

2.2.4 With complaints about regulated services under the Care Standards Act 2000 and where services are delivered on the local authority's behalf or through an internal service that is regulated, the local authority will need to satisfy itself that the complaint can be considered under this procedure.

## **2.3 Adoption services**

2.3.1 The Regulations also provide that the following adoption-related functions may also be the subject of a complaint:

- Provision of adoption support services (as prescribed in regulation 3 of the Adoption Support Services Regulations 2005) insofar as these enable adoptive children to discuss matters relating to adoption;
- assessments and related decisions for adoption support services as prescribed in regulation 3 of the Adoption Support Services Regulations 2005 (Parts 4 and 5 of the Adoption Support Services Regulations 2005);
- placing children for adoption, including parental responsibility and contact issues



- (sections 18 to 29 of the 2002 Act);
- removal of children who are or may be placed by adoption agencies (sections 30-35 of the 2002 Act);
- removal of children in non-agency cases (sections 36-40 of the 2002 Act);
- duties on receipt of a notice of intention to adopt (section 44 of the 2002 Act);
- duties set out in regulations in respect of:
  - a local authority considering adoption for a child (part 3 of Adoption Agency Regulations 2005);
  - a proposed placement of a child with prospective adopters (part 5 of Adoption Agency Regulations 2005);
  - placement and reviews (part 6 of Adoption Agency Regulations 2005);
  - records (part 7 of Adoption Agency Regulations 2005);
  - contact (part 8 of Adoption Agency Regulations 2005); and
- parental responsibility prior to adoption abroad (part 3 of Adoptions with a Foreign Element Regulations 2005).

## **2.4 Complaints and Special Guardianship Support Services**

2.4.1 Special Guardianship Regulations 2005 came into force on 30 December 2005, under those Regulations the following functions may be the subject of a representation or complaint:

- financial support for Special Guardians;
- support groups for children and young people to enable them to discuss matters relating to Special Guardianship;
- assistance in relation to contact;
- therapeutic services for children and young people; and
- assistance to ensure the continuation of the relationship between the child or young person and their Special Guardian or prospective Special Guardian.

## **2.5 What is exempt from the complaints procedure?**

2.5.1 The complaints procedure does not apply when:

- the person wishing to complain does not meet the requirements of "who may complain" and is not acting on behalf of such an individual;
- the complaint is not in regard of the actions or decisions of the local authority complained to, or of any body acting on its behalf; or
- the same complaint has already been dealt with at all stages of the procedure.

2.5.2 Regulation 8 provides the local authority with discretion in deciding whether to consider complaints where to do so would prejudice any of the following concurrent investigations:

- Court proceedings;
- Tribunals;
- Disciplinary proceedings; or
- Criminal proceedings.

2.5.3 If the local authority decides not to consider or further consider complaints subject to these concurrent investigations, they must write to the complainant explaining the reason for their decision and specifying the relevant concurrent investigation (regulation 8(3)).

2.5.4 Once the concurrent investigation has been concluded the complainant may resubmit their complaint to the local authority as long as it is within one year of the conclusion of the concurrent investigation.

## **2.6 Who may complain?**

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

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

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

2.7.1 Where a complaint is received from a representative acting 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 his views.

2.7.2 The local authority has the discretion to decide whether or not the representative is suitable to act in this capacity or has sufficient interest in the child's welfare. If the Complaints Manager considers that the representative does not have sufficient interest, he should notify the representative in writing, explaining that no further action should be taken. The Complaints Manager should discuss this decision with relevant operational managers as appropriate.

## **2.8 Complaints relating to a child**

2.8.1 The local authority is also likely to receive complaints by adults that relate to a child or young person but are not made on the child's behalf. The Children Act, 1989 gives discretion to local authorities to decide in cases where eligibility is not automatic whether or not an individual has sufficient interest in the child's welfare to justify his own complaint being considered by them. In reaching a decision, where possible the local authority may wish to check with the child or young person that he is happy with the person making a complaint.

## **2.9 Anonymous complaints**

2.9.1 Anonymous complaints should always be recorded and referred to the Complaints Manager in the same way as other complaints. Anonymous complaints fall outside of the scope of the statutory procedure and it is for the local authority to decide what action it should take. The fact that the complaint is from an anonymous source should not in itself justify a decision not to pursue the matter. Nor should it rule out referral to other procedures as relevant.

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

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

### **3 HANDLING AND CONSIDERATION BY LOCAL AUTHORITIES**

#### **3.1 Introduction**

3.1.1 The consultation document, *Getting the Best from Complaints*, originally proposed a two stage process. A major difference between the draft and final regulations is the resumption of three distinct stages to the procedure; local authorities continue to have responsibility for all three stages locally. The regulations require the local authority to attempt to resolve complaints and address representations as soon as reasonably practicable and within specific timescales. Where appropriate and with agreement from the child or young person making the complaint, the local authority may arrange for conciliation, mediation or other services to help resolve matters.

3.1.2 The timescales in working days for the procedure are:

- 10 days at Stage 1 (with a further 10 days for more complex complaints or additional time if an advocate is required);
- 25 days at Stage 2 (with maximum extension to 65 days);
- 20 days for the complainant to request a Review Panel;
- 30 days to convene and hold the Review Panel at Stage 3;
- 5 days for the Panel to issue its findings; and
- 15 days for the local authority to respond to the findings.

3.1.3 The regulations place a duty on the local authority to act expeditiously through the procedure; this is to ensure that the complaint is dealt with as swiftly as possible.

3.1.4 The handling and consideration of complaints consists of three stages: Stage 1 - Local Resolution, Stage 2 - Investigation and Stage 3 - Review Panel. Local Resolution requires the local authority to resolve a complaint as close to the point of contact with the child or young person as possible (i.e. through front line management of the service). In doing so the local authority should consider the wishes of the complainant about how the complaint should be dealt with. In most circumstances complaints should be considered at Stage 1 in the first instance.

3.1.5 Where a complaint is accepted at Stage 1, the complainant is entitled to pursue their complaint further through this procedure except in the case of cross boundary issues. In all other instances, once a complaint has entered Stage 1, the local authority is obliged to ensure that the complaint proceeds to Stages 2 and 3 of this procedure, if that is the complainant's wish. For cross boundary issues, see section 7 of this guidance.

#### **3.2 Receiving a complaint**

3.2.1 Local authorities are required to put in place systems for complaints to be made verbally to a member of staff or in writing (including electronically) (regulation 6). Complaints handling by local authorities must be child and young person friendly and appropriate to the age and understanding of the child. The concerns of children and young people should be listened to. If a child or young person wishes to make a complaint, local authorities are required to provide him with information about advocacy services and offer help to obtain an advocate (see section 3.4).

3.2.2 If a complaint is made to a member of staff, the Complaints Manager should be informed as soon as possible so that he can record the complaint and monitor progress. It should be remembered that there may be no need to engage the complaints procedure

if the matter is resolved immediately.

3.2.3 As soon as it becomes apparent that someone wishes to make a complaint, the complainant should be given information about the authority's complaints procedure including how to contact the Complaints Manager. Section 4 describes publicity strategies.

3.2.4 The complainant retains the right to approach the Local Government Ombudsman at any time and the local authority should make this clear in its publicity. However, the Ombudsman would ordinarily expect the local authority to consider the complaint initially and may refer the complaint back to the relevant Complaints Manager if this has not been done.

### **3.3 Time limit for making a complaint**

3.3.1 Local authorities do not need to consider complaints made more than one year after the grounds to make the representation arose (regulation 9). In these cases, the Complaints Manager should write to advise the complainant that their complaint cannot be considered and explaining the reasons why he has adopted this position. This response should also advise the complainant of their right to approach the Local Government Ombudsman. However, as with freezing decisions, decisions need to be made on a case by case basis and there should generally be a presumption in favour of accepting the complaint unless there is good reason against it.

3.3.2 The time limit can be extended at the local authority's discretion if it is still possible to consider the representations effectively and efficiently. Local authorities may also wish to consider such complaints if it would be unreasonable to expect the complainant to have made the complaint earlier. For example, where the child was not able to make the complaint or did not feel confident in bringing it forward in the year time limit.

3.3.3 Though not exclusive, possible grounds for accepting a complaint made after one year are:

- genuine issues of vulnerability;
- the local authority believes that 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 investigation to be carried out; and
- action should be taken in light of human rights-based legislation.

### **3.4 Providing advocacy and support**

3.4.1 During the course of making a complaint, the local authority should support the child or young person by actively providing information and advice. As described in section 3.2.1, the child or young person is entitled to advocacy support that is independent and confidential. For statutory guidance on advocacy provision please refer to *Get It Sorted: Providing Effective Advocacy Services for Children and Young People making a Complaint under the Children Act, 1989*.

3.4.2 The Complaints Manager should ensure that a suitable person meets the child or young person to discuss the complaints process and ensure that any questions or concerns that the complainant may have are fully addressed. Where an advocate is being used, the local authority needs to ensure that the advocate is acting with the informed consent of the young person. The local authority should not rely on the

advocate to ensure the child or young person understands the procedure.

3.4.3 The local authority should also consider how to meet the varying needs of complainants. This should be particularly important in relation to complainants whose first language is not English and those with communication difficulties. The authority may wish to consider publicising any facilities available to complainants from voluntary organisations and local community or self-help groups.

### **3.5 Stage 1 – Local Resolution**

3.5.1 A complaint is made on the date on which it is first received by the local authority.

3.5.2 The expectation is that the majority of complaints should be considered (and resolved) at Stage 1. However, if the local authority or the complainant believes that it would not be appropriate to consider the complaint at Stage 1, they should discuss this together. Where both parties agree, the complaint can move directly to Stage 2.

3.5.3 At Stage 1, staff at the point of service delivery – including the Independent Reviewing Officer where appropriate – and the child or young person should discuss and attempt to address the complaint as quickly as possible. They should discuss the issue and exchange information and thinking behind decisions and try to agree a way forward.

3.5.4 Regulation 14(1) places a 10 working day time limit for this part of the process. Most Stage 1 complaints should ideally be concluded within this time limit.

3.5.5 Where the local authority cannot provide a complete response it can implement a further 10 days' extension (regulation 14(5)). If necessary, the local authority may also suspend Stage 1 until an advocate has been appointed (regulation 14(3)). The maximum amount of time that Stage 1 should take is 20 working days. After this deadline the complainant can request consideration at Stage 2 if he so wishes.

3.5.6 The Complaints Manager should inform the complainant that he has the right to move on to Stage 2 if the time scale has elapsed for Stage 1 and the complainant has not received an outcome. It may be that the complainant is happy to put this off for the time being (for example, if the reason that resolution is delayed due to a key person being off sick or on leave), so this period can be extended with the complainant's agreement or request.

3.5.7 If the matter is resolved, the local authority must write to the complainant confirming the agreed resolution and the Complaints Manager should be informed of the outcome as soon as possible. Otherwise, a letter should be sent by the local authority to the complainant (or a meeting offered, if this is more appropriate) responding to the complaint.

3.5.8 Where the matter is not resolved locally, the complainant has the right to request consideration of the complaint at Stage 2. There is no time-limit within which he must request this, but local authorities may wish to recommend that the complainant does this within 20 working days so that momentum in resolving the complaint is not lost. The local authority is under a duty to operate expeditiously throughout the complaints handling process (regulation 10).

### **3.6 Stage 2 – Investigation**

3.6.1 Consideration of complaints at Stage 2 is normally achieved through an

investigation conducted by an investigating officer and an independent person. Stage 2 commences either when the complainant requests it or where the complainant and the local authority have agreed that Stage 1 is not appropriate (regulation 17(1)).

3.6.2 If the complaint has been submitted orally, the Complaints Manager must ensure that the details of the complaint and the complainant's desired outcome are recorded in writing and agreed with the complainant. This may be achieved either by correspondence or by meeting the complainant to discuss, followed by a written record of what was agreed. He may wish to do this in conjunction with the Investigating Officer and Independent Person appointed to conduct Stage 2 (see below). Should the complainant amend the written record of his complaint, the Stage 2 timescale will start from the date that the complaint is finalised.

3.6.3 The Complaints Manager should arrange for a full and considered investigation of the complaint to take place without delay. He may also request (in writing) any person or body to produce information or documents to facilitate investigation, and consideration should be given to matters of disclosure and confidentiality. Consideration of the complaint at Stage 2 should be fair, thorough and transparent with clear and logical outcomes.

3.6.4 The Complaints Manager should ensure that the authority appoints an Investigating Officer (IO) to lead the investigation of the complaint and prepare a written report for adjudication by a senior manager. The IO may be employed by the local authority or be brought in from outside the authority, appointed specifically for this piece of work. The IO should not, however, be in direct line management of the service or person about whom the complaint is being made.

3.6.5 An Independent Person (IP) must be appointed to the investigation (regulation 17(2)) (see Annex 1 on Definition of Roles). This person should be in addition to the IO and must be involved in all aspects of consideration of the complaint including any discussions in the authority about the action to be taken in relation to the child.

3.6.6 A copy of the complaint should be sent to any person who is involved in the complaint, unless doing so would prejudice the consideration of the complaint. Where this may be the case, the Complaints Manager should advise senior management, who should inform staff of the details of the complaint through normal line management.

3.6.7 The IO should have access to all relevant records and staff. These should be released within the bounds of normal confidentiality and with regard to relevant legislation in the Freedom of Information Act, 2000 and the Data Protection Act, 1998.

3.6.8 The investigation should be completed and the response sent to the child or young person within 25 working days (regulation 17(3)). However, this may be impractical in some cases, e.g. where the complaint involves several agencies, all or some of the matters are the subject of a concurrent investigation (such as a disciplinary process), if the complaint is particularly complicated or if a key witness is unavailable for part of the time.

3.6.9 Where it is not possible to complete the investigation within 25 working days, Stage 2 may be extended to a maximum of 65 working days (regulation 17(6)). All extensions should be agreed by the Complaints Manager. The important thing is to maintain dialogue with the complainant and where possible reach a mutual agreement as to what is reasonable where a response in 25 working days is not feasible.

3.6.10 The local authority must inform the child or young person as soon as possible in writing of:

- the reason for the delay; and
- the date by which he should receive a response (regulation 17(6)).

3.6.11 Where one or more agencies are involved in considering the complaint, it would be good practice for these bodies to aim for whichever is the shorter of the timescales to produce their final responses.

### **3.7 Stage 2 investigation report**

3.7.1 On completion of his consideration of the complaint, the IO should write a report on his investigations including:

- details of findings, conclusions and outcomes are against each point of complaint (i.e. “upheld” or “not upheld”); and
- recommendations on how to remedy any injustice to the complainant as appropriate.

The report should be written in plain language, avoiding jargon, so that everyone can understand it. It should distinguish between fact, feelings and opinion. For further guidance on this report see Annex 2.

3.7.2 Good practice suggests that the IP should also provide a report to the local authority once he has read the IO’s final report. He may wish to comment on:

- whether he thinks the investigation has been conducted entirely in an impartial, comprehensive and effective manner;
- whether all those concerned have been able to express their views fully and fairly;
- whether the IO’s report provides an accurate and complete picture of the investigation; and
- the nature of the recommendations or make his own recommendations as necessary.

### **3.8 The adjudication process**

3.8.1 Once the IO has finished the report, a senior manager should act as Adjudicating Officer and consider the complaints, the IO’s findings, conclusions, and recommendations, any report from the IP and the complainant’s desired outcomes.

3.8.2 The purpose of adjudication is for the local authority to consider the reports and identify:

- its response;
- its decision on each point of complaint; and
- any action to be taken (with timescales for implementation).

3.8.3 The Adjudicating Officer should normally be a senior manager, reporting to the Director responsible for Children’s Services. The Adjudicating Officer will prepare a response to the reports, with his decision on the complaint, actions he will be taking with timescales for implementation – this is the adjudication.



3.8.4 The Adjudicating Officer may wish to meet the Complaints Manager, IO and IP, to clarify any aspects of the reports. The Adjudicating Officer should also consider liaising with the Complaints Manager in drafting the adjudication.

3.8.5 The Adjudicating Officer may wish to meet the child or young person as part of the adjudication process or afterwards to explain the details of the adjudication i.e. the outcome of the complaint and any actions that he proposes.

3.8.6 The local authority should then write to the complainant with their response containing:

- a complete copy of the investigation report;
- any report from the IP; and
- the adjudication.

This response must contain details of the complainant's right to have the complaint submitted to a Review Panel if he is dissatisfied and that he has 20 working days to make this request to the local authority / Complaints Manager (regulation 17(8)).

3.8.7 The Adjudicating Officer should ensure that any recommendations contained in the response are implemented. The Complaints Manager should monitor implementation and report to the Director on what action has been taken on a regular basis.

### **3.9 Stage 3 – Review Panels**

3.9.1 Where Stage 2 of the complaints procedure has been concluded and the complainant is still dissatisfied, he will be eligible to request further consideration of the complaint by a Review Panel (regulation 18). As it is not possible to review a complaint that has not yet been fully considered at Stage 2 (including providing the report(s) and adjudication to the complainant), it is essential that the local authority does not unnecessarily delay the conclusion of Stage 2.

3.9.2 Further consideration of the complaint can include, in a limited number of cases, early referral to the Local Government Ombudsman (see Annex 3). Otherwise, the complainant retains the right to proceed to a Review Panel.

3.9.3 The Complaints Manager should assess requests for the Review Panel as they are presented on a case by case basis. The Complaints Manager should also confer with the Chair, following the Chair's appointment, regarding arrangements for the Panel.

### **3.10 Purpose of Review Panels**

3.10.1 Review Panels are designed to:

- listen to all parties;
- consider the adequacy of the Stage 2 investigation;
- obtain any further information and advice that may help resolve the complaint to all parties' satisfaction;
- focus on achieving resolution for the complainant by addressing his clearly defined complaints and desired outcomes;
- reach findings on each of the complaints being reviewed;

- make recommendations that provide practical remedies and creative solutions to complex situations;
- support local solutions where the opportunity for resolution between the complainant and the local authority exists;
- to identify any consequent injustice to the complainant where complaints are upheld, and to recommend appropriate redress; and
- recommend any service improvements for action by the authority.

3.10.2 As a general rule, the Review Panel should not reinvestigate the complaints, nor should it be able to consider any substantively new complaints that have not been first considered at Stage 2.

3.10.3 Ideally, no party should feel the need to be represented by lawyers at the Review Panel. The purpose of the Panel is to consider the complaint and wherever possible, work towards a resolution. It is not a quasi-judicial process and the presence of lawyers can work against the spirit of openness and problem-solving. However, the complainant has the right to bring a representative to speak on his behalf.

### **3.11 General principles**

3.11.1 The Review Panel should be alert to the importance of providing a demonstrably fair and accessible process for all participants. Many complainants, particularly children and young people, may find this stage to be a stressful experience. It is important that the Panel is customer-focused in its approach to considering the complaint and child or young person-friendly. This may include limiting the total number of local authority representatives attending to a workable minimum to avoid the possibility of overwhelming the complainant.

3.11.2 In particular, the following principles should be observed for the conduct of the panel:

- The local authority should recognise the independence of the Review Panel and in particular, the authority of the Chair;
- Panels should be conducted in the presence of all the relevant parties with equity of access and representation for the complainant and local authority;
- Panels should uphold a commitment to objectivity, impartiality and fairness, and ensure that the rights of complainants and all other attendees are respected at all times;
- The local authority should consider what provisions to make for complainants, including any special communication or mobility needs or other assistance;
- Panels should observe the requirements of the Human Rights Act 1998, the Data Protection Act 1998, and other relevant rights-based legislation and conventions in the discharge of their duties and responsibilities;
- The standard of proof applied by Panels should be the civil standard of ‘balance of probabilities’ and not the criminal standard of ‘beyond all reasonable doubt.’ This standard will be based on evidence and facts; and
- It will be at the Chair’s discretion to suspend or defer proceedings in exceptional circumstances where required, including the health and safety of all present.

3.11.3 The local authority should be mindful of the specific needs of children and young people either using or affected by complaints. Local authorities should ensure that:

- the Review Panel acts in accordance with the United Nations Convention on the Rights of the Child;
- the Review Panel safeguards and promotes the rights and welfare of the child or young person concerned;
- the wishes and feelings of such children and young people are ascertained, recorded and taken into account;
- the best interests of such child or young person are prioritised at all times; and
- where the complaint is made by a person deemed to have a sufficient interest in the child's welfare, they should where appropriate, seek the child or young person's views with regard to the complaint.

### **3.12 Redress**

3.12.1 Under Section 92 of the Local Government Act 2000, local authorities are empowered to remedy any injustice arising from maladministration. Further details on remedies and redress are discussed in section 6.2.

3.12.2 The Review Panel must set out its recommendations to the local authority on any strategies that can assist in resolving the complaint. These may include financial compensation or other action within a specified framework to promote resolution.

### **3.13 Make up of the Panel**

3.13.1 The Panel must consist of three independent people (regulation 19(2)). Independent means a person who is neither a member nor an officer of the local authority to which the representations have been made, nor the spouse or civil partner of such a person. The Independent Person appointed to Stage 2 may not be a member of the Panel (regulation 19(3)).

3.13.2 In selecting the Panel the local authority should consider:

- the profile of the local population;
- how best to demonstrate independence of the procedure;
- the needs and circumstances of the individual complainant and the need for specialist skills, knowledge, or awareness regarding the presenting complaint;
- any real or perceived conflict of interest raised by either the substance of the complaint or the Panel process for considering that complaint; and
- due care regarding political sensitivity.

3.13.3 One member of the Panel should be assigned as Chair of the panel. The Chair's role is described in Annex 1. Good practice suggests that the person appointed as Chair should not have been an officer or a Member of the local authority during the three years preceding the Panel.

3.13.4 In order that the Chair may contribute to the organisation of the panel, the Complaints Manager should appoint the Chair first – ideally within ten working days of the complainant's request to proceed to Stage 3 – before identifying other panel members.

### **3.14 Administration of the Panel**

3.14.1 Local authorities should:

- demonstrate an ongoing commitment to supporting Panellists through regular training;
- confirm references, Criminal Records Bureau referrals, confidentiality and disclosure protocols, declarations of interest, and provide other support as required;
- provide Panellists with a letter of appointment explaining the Review Panel process, their role as a Panellist and describing the expenses and other payment to which they may be entitled. Attention should also be drawn to important issues such as confidentiality;
- reimburse Investigating Officers, Independent Persons and any other external people involved in the earlier stages for their attendance at the Panel, as appropriate;
- provide complainants with information on attending the Panel and assistance that they can draw on; and
- facilitate the administrative support and advisory functions on the day of the Panel.

3.14.2 The Panel must be held within 30 working days of the receipt of a request for a Review (regulation 19(4)). The local authority should acknowledge the complainant's request for a Review in writing within 2 days of receiving it. The Panel Review should be provided locally and with due regard to the complainant's availability and convenience. The complainant should be notified of the Panel's date and location in writing at least 10 working days before the Review Panel meets and be invited to attend.

3.14.3 Panel papers should be sent to panellists and other attendees as soon as these have been agreed by the Chair and no later than ten working days before the date of the Panel. These should normally include: information on Stage 1 (as relevant), the Stage 2 investigation report(s), the local authority's adjudication, any policy, practice or guidance information relevant to the complaint, and any comments that the complainant has submitted to the Panel. The papers should also include information on any local practice around Panels, such as conduct, roles and responsibilities.

3.14.4 If any other written material is submitted for consideration by the panel outside of these timescales, it will usually be at the Chair's discretion whether it is accepted.

3.14.5 If any complaint is logged on the day by the complainant about the proceedings, the local authority should record it and the Panel should take a view on the need for further action and should record their decision.

### **3.15 Attendance at the Panel**

3.15.1 The complainant has a right to attend the Panel and should be assisted in attending as appropriate. The complainant should also be informed of his entitlement to be accompanied by another person and for this person to speak on his behalf.

3.15.2 Those persons involved with the investigation at Stage 2 (e.g. the Investigating Officer, and the Independent Person) should be invited to attend and contribute as relevant to their roles. Should any of these persons' unavailability cause an inordinate delay in holding the Panel; the Chair should take a view on proceeding without them. The local authority can also proceed with the Panel in the complainant's absence at the complainant's request.

3.15.3 The Adjudicating Officer should attend as the authority's representative if he has rejected any of the Investigating Officers findings at Stage 2. Where he has accepted all

of them, it is usually acceptable to delegate this responsibility.

3.15.4 The Chair should make the final decision on attendees (including asking the local authority to make specific members of staff available to provide specialist advice or opinion). He should also decide whether additional policies or procedures should be circulated with the Panel's papers.

3.15.5 The Complaints Manager and anyone providing administrative support (see Annex 1) should also attend the Panel.

### **3.16 Conduct of the Panel**

3.16.1 The Panel should be conducted as informally as possible, but in a professional manner and in an atmosphere that is accommodating to all attendees. This is particularly important where the complainant might be a child or young person. The need for other support in response to diversity and disability issues should be catered for, including (but not limited to) provision for sensory impairment, translation and interpretation.

3.16.2 Panels should normally be structured in three parts: pre-meeting; presentations and deliberation.

#### **Pre-meeting**

3.16.3 This is an opportunity for the Panellists and their administrative support to meet in closed session to discuss the order of business and any other relevant issues (e.g. taking legal advice). No deliberations on the complaint should commence at this meeting.

#### **Presentations**

3.16.4 Once all attendees are present, the Chair should commence the Review by explaining its purpose and the need for confidentiality. The Chair should advise the complainant of the respective roles and responsibilities of those present and address any questions or concerns that the complainant may have about the process.

3.16.5 The Chair should ensure that the Panel's focus is on the agreed complaint and the complainant's desired outcomes from the Stage 2 investigation. The purpose of hearing the presentations is to understand each party's opinion of the complaint rather than an opportunity to cross-examine attendees. The Chair should also indicate how long the Panellists anticipate that the presentations should last.

3.16.6 The full Panel meeting should begin with presentations on the points of complaint and desired outcomes by the complainant and the local authority. Normally, the first presentation should be by the complainant (or advocate/representative) who should be invited to 'talk' to the complaint and expand upon any relevant themes that should aid the Panel's deliberation. The Chair should ensure that this presentation is reasonable and relevant, exercising discretion in limiting its scope, substance or duration.

3.16.7 Panellists should then have sufficient opportunity to ask questions of all present and seek clarification on the issues being discussed so they are in a position to make recommendations regarding the outcome. The Chair should also invite the complainant, the local authority and other attendees to ask questions and raise points of information and opinion as relevant to the complaint.

### 3.17 Deliberations

3.17.1 The Panel should then go into closed session to deliberate on their findings and conclusions. The Panel may need administrative support at this stage, but this should not unduly influence the Panel's deliberations and no conflict of interest should arise.

3.17.2 The Panel is required to produce a written report containing a brief summary of the representations and their recommendations for resolution of the issues (regulation 20(1)). They must send this to the complainant, the local authority, the independent person from Stage 2 and any other person with sufficient interest within 5 working days of the Panel meeting (regulation 20(2)). The written record should set out simply and clearly a brief summary of the representations; their recommendations for the resolution of the issues and the reasons for them. If a Panellist disagrees with the majority recommendation, this should also be recorded and the reason for it given.

### 3.18 After the Panel

3.18.1 The local authority must send its response to the Panel's recommendations to the complainant (and other participants as necessary) within 15 days of receiving the Panel's report (regulation 20(3)). The response should be developed by the relevant Director / Director of Children's Services setting out how the local authority will respond to the recommendations and what action will be taken. If the Director deviates from the Panel's recommendations he should demonstrate his reasoning in the response. In developing his response he should invite comment from all the attendees including the Independent Person from Stage 2 (regulation 20(3)).

3.18.2 The complainant should be advised of his right to refer his complaints (if still dissatisfied) to the Local Government Ombudsman (regulation 20(3)).

### 3.19 Summary of stage 3 timescales

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

### 3.20 Withdrawing a complaint

3.20.1 The complaint may be withdrawn verbally or in writing at any time by the

complainant (regulation 7). The local authority must write to the complainant to confirm the withdrawal of the complaint. In these circumstances, it would also be good practice for the local authority to decide on whether or not it wishes to continue considering the issues that gave rise to the complaint through an internal management review. The local authority should then use this work to consider the need for any subsequent actions in the services it delivers.

3.20.2 Should the complainant then seek to reinstate the complaint, the local authority could use the review to produce a response as necessary.

## **4 PUBLICITY**

### **4.1 Communicating and publicising the complaints and representations procedures**

4.1.1 As soon as possible after receiving a complaint or representation, the local authority must provide the complainant with details of its procedure for dealing with representations and information about advocacy services (regulation 11).

4.1.2 Section 26A of the Children Act, 1989 requires local authorities to make arrangements for the provision of advocacy services to children or young people making or intending to make complaints under section 26 or section 24D of the Act.

4.1.3 As with Section 2.1, if the child or young person is not making a complaint but wishes to make a representation, the local authority should ensure that the young person has sufficient information on how to proceed.

### **4.2 Age appropriate publicity materials**

4.2.1 Many children and young people have told the Government that they are not aware how to make a complaint. Many are not aware of the complaints procedures and that they lacked the information and understanding they needed on how to make a complaint and on what they could expect to happen as a result.

4.2.2 Information should be available free of charge to all members of the community. The foremost method of communicating should be through staff talking to service users and their representatives to promote the right to complain.

4.2.3 Local authorities should also be alert to the benefit of websites, text messages on mobile phones, local media and traditional forms of advertising and publicity. They may wish to produce:

- leaflets and posters;
- information on complaints in other council leaflets, such as leaflets on social work; and
- visual and oral presentations.

4.2.4 Written information should explain the procedure in straightforward terms, and be tailored to meet the needs of children and young people with learning disabilities, sensory impairments, limited mobility and those who do not have English as a first language. They should give details of how to contact the Complaints Manager, and include information on advocacy and how to approach the Local Government Ombudsman.

4.2.5 Once the local authority has received a representation, it should ensure that the child or young person receives:

- assistance in following this procedure and, where appropriate, help in obtaining an advocate; and
- an offer of a meeting with the Complaints Manager.

### **4.3 Information and training for staff**

4.3.1 Staff may need increased support and supervision from line managers to help



them co-operate with the procedure and to work positively with the complainant.

4.3.2 Local authorities should make sure that their procedures are known and understood by all staff, Elected Members, Investigating Officers, Independent Persons, Review Panellists, service users, their carers and representatives. The Complaints Manager should consider the contributions that these groups can make to training and discussions about the delivery of the complaints procedure.

4.3.3 Tailored training should be available to staff at all levels of the authority. A training strategy is likely to include a basic introduction to the principles and working of the complaints procedure along with skills development. It should also explore the relationships between the complaints procedures and related policies, including whistle blowing and the duties of staff under the authority's Code of Conduct to report improper behaviour and wrong-doing.

4.3.4 Training should also include raising understanding of the cultural and special needs of individual complainants so that practice can be tailored to suit their needs.

## **5 MONITORING ARRANGEMENTS FOR LOCAL AUTHORITIES**

### **5.1 Recording**

5.1.1 Local authorities must monitor the complaints arrangements that they have in place to ensure that they comply with the regulations (regulation 13). They must keep a record of:

- each representation / complaint received;
- the outcome of each i.e. the decisions made in response to the representation / complaint and any action to be taken; and
- whether there was compliance with the time limits.

5.1.2 The Complaints Manager should liaise with Independent Reviewing Officers and any other members of staff to compile the total number of representations. The Complaints Manager may wish to add these to his annual report (see section 5.6).

5.1.3 The overall purpose of recording is to enable:

- Children and young people to see that their concerns and suggestions are being dealt with and that a thorough and fair consideration has taken place;
- the organisation to demonstrate that complaints are taken seriously and how they are resolved; and
- feedback from representations and complaints to lead to improvement in service planning and delivery.

### **5.2 Record management and data protection**

5.2.1 All functions of the complaints procedure must adhere to the requirements of the Data Protection Act, 1998 and the Freedom of Information Act, 2000. The Records Management Department of the Public Record Office has also developed guidance for Departmental Record Officers (see [www.nationalarchives.gov.uk](http://www.nationalarchives.gov.uk)).

5.2.2 Particular attention is drawn to the need to ensure that any personal information obtained in relation to a complaint is only used for that purpose.

5.2.3 Section 119 of the Health and Social Care (Community Health and Standards) Act 2003, makes an amendment relevant to the complaints functions to Section 31 of the Data Protection Act 1998. This is that people charged under the regulations with consideration of complaints are exempt from the subject information provisions of the Data Protection Act 1998 to the extent to which application of these provisions would prejudice considering the complaint. The subject information provisions of the Data Protection Act allow for individuals to obtain information which is held on them by others. Section 31 of the Data Protection Act provides an exemption from these provisions by reference to a number of different categories of regulatory function exercised by public bodies.

5.2.4 Useful information about record management and Data Protection can be found on the Information Commissioner's website:

[www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

5.2.5 Records of complaints, any investigation reports, Panel reports and letters of response from the local authority should be placed on the relevant service user's file,

unless there are specific reasons not to do so (for example, if the reports would cause distress to the child). Those involved in the investigation should have access to notes of their own interview in order to confirm the accuracy of the content. The investigation report and all other relevant papers should be held by the Complaints Manager in a separate complaints file.

### **5.3 Confidential complaints**

5.3.1 A frequent worry of children and young people is that details of the complaint might be given to other people who do not need to know about it. Children see privacy and confidentiality as vital, and must be able to make 'confidential complaints' – sometimes to avoid 'come-backs' on themselves. Therefore details of a child's personal complaint should not be put into a complaints book that others can read.

5.3.2 Particular attention is drawn to the need to ensure that personal information obtained in relation to a complaint is used only for that purpose.

### **5.4 Making complaints information accessible**

5.4.1 For children and young people with difficulty reading, writing or speaking English, the local authority should identify a suitable method of communication so that these children can express and follow progress on their complaint in full, this might involve the provision of information (including responses to complaints) in large print, translation or in other formats. In the case of complainants with special needs or within specific community groups, the local authority should meet the complainant to explain any reports in person.

5.4.2 For people with special needs, such as learning disabilities, sensory or physical impairment or with mental health problems, the Complaints Manager should liaise closely with the authority's specialist teams and relevant voluntary bodies to ensure that the complainant is able to express their complaint in full (see section 3.4 on Providing Advocacy and Support). The child or young person should have confidence that the authority can provide as thorough consideration as for any other service user.

### **5.5 Diversity monitoring**

5.5.1 Local authorities should, where possible and appropriate, ensure that they ask the complainant to define their own ethnic origin, gender, any disability and age. It is important that authorities seek to identify for the complaints procedure:

- an accurate picture of use by ethnic origin, age, gender, sexual orientation and disability;
- where take-up or use could be improved or reviewed;
- a base-line for planning, target-setting and measuring change;
- that it is accessible equally to all sections of the community;
- whether any distinct needs exist amongst members of minority groups, for which special provision may be necessary; and
- that it does not inadvertently discriminate against any particular group.

### **5.6 Annual report**

5.6.1 Local authorities must each financial year publish an Annual Report (regulation 13(3)). This should draw upon the information already gathered under section 5.1 for recording purposes. However, this Annual Report is a separate requirement and should

not contain personal information that is identifiable about any individual complainant.

5.6.2 The Annual Report should be arranged by the Complaints Manager and should provide a mechanism by which the local authority can be kept informed about the operation of its complaints procedure. The report should be presented to staff, the relevant local authority committee and should be made available to the regulator and the general public. It should provide information about:

- representations made to the local authority;
- the number of complaints at each stage and any that were considered by the Local Government Ombudsman;
- which customer groups made the complaints;
- the types of complaints made;
- the outcome of complaints;
- details about advocacy services provided under these arrangements;
- compliance with timescales, and complaints resolved within extended timescale as agreed;
- learning and service improvement, including changes to services that have been implemented and details of any that have not been implemented;
- a summary of statistical data about the age, gender, disability, sexual orientation and ethnicity of complainants; and
- a review of the effectiveness of the complaints procedure (see section 5.7 on Monitoring and Quality Assurance).

5.6.3 In order to demonstrate learning from complaints, analysis of trends and closer working with relevant bodies (such as the NHS), individual local authorities may wish to agree a common format for their reports and reporting cycles with relevant key agencies. For more information and good practice in producing Annual Reports, please visit the Commission for Social Care Inspection's website at:

[www.csci.gov.uk](http://www.csci.gov.uk)

## **5.7 Monitoring and quality assurance**

5.7.1 Local authorities should monitor the operation and effectiveness of their complaints procedure as well as how information about complaints is being used to improve services and delivery. Local authorities should ensure that their quality assurance systems include a cycle of planning with outcomes fed back into operational delivery. All local authorities should provide a system for:

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

5.7.2 Monitoring should also 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 should be fed back into the system in order to facilitate and improve policy and practice.

## **6 PROBLEM SOLVING AND RESOLUTION**

### **6.1 Resolving the issue**

6.1.1 Solving the problems that generate complaints should be at the forefront of the local authority's approach to responding to children and young people. Involving people and agencies in the community who provide independent advice can assist problem solving and may prevent dissatisfaction developing into complaints.

6.1.2 Staff should consider when an unresolved problem becomes a complaint. It is important to ensure that attempts at problem solving are not to be used to divert an eligible person from making a complaint under the statutory procedure.

6.1.3 Attempts at resolution should not end once a complaint has been made. Rather, there should be continued efforts to resolve the dissatisfaction of children and young people so that the matter complained about is resolved during consideration of the complaint. Local authorities should also consider introducing alternative ways of resolving the complaint while any given stage is ongoing. In any case, resolution should be in the best interest of the child concerned, particularly if an adult has complained about the children's services, but not on the child's behalf.

6.1.4 There are a number of methods of resolution that do not require a full investigation that can be applied, including:

- the provision of an apology or explanation;
- conciliation and mediation;
- a reassessment of the children or young person's needs;
- practical action specific to the particular complainant;
- a review of practice; and,
- an assurance that the local authority will monitor the effectiveness of its remedy.

### **6.2 Alternative Dispute Resolution (ADR)**

6.2.1 Nothing in this procedure should preclude either the complainant or the local authority from suggesting Alternative Dispute Resolution. If agreed by both complainant and Complaints Manager, the local authority should explore this option.

6.2.2 Entering into Alternative Dispute Resolution (ADR) should not restrict the complainant's right to request a Review Panel as long as this is within the 20 working day timescale. Once the final date of the particular resolution process is agreed (i.e. following the final mediation meeting) and should the complainant decide that he wants to invoke his right to a Review Panel, he can terminate ADR at any time.

### **6.3 General principles of redress**

6.3.1 Under Section 92 of the Local Government Act 2000, local authorities are empowered to remedy injustice arising from maladministration. Remedies will include, but are not restricted to, financial redress.

6.3.2 Each case should be considered on its own merits, and local authorities should develop their own policies to assure consistency across similar injustices. These should ensure that any remedies are implemented reasonably quickly or to take action within a defined framework.

### 6.3.3 Any application of remedies should:

- be appropriate and proportionate to the injustice;
- put the complainant in the position he would have been in except for the fault;
- consider financial compensation, where the above is not possible;
- take into account the complainant's views and desired outcomes; and
- take into account the effect of the complainant's own actions (such as delay on his part).

## 6.4 Financial redress

### 6.4.1 There are different reasons why financial redress may arise. These include:

- compensation;
- quantifiable loss;
- loss of a non-monetary benefit;
- loss of value;
- lost opportunity;
- distress; and
- time and trouble.

### 6.4.2 When considering financial redress, the local authority should also consider the following issues:

- whether it is appropriate to offset compensation in instances where the complainant owes money to the authority. This would apply for any costs owed to the authority as a whole, rather than to a single service;
- where the complainant has incurred expenses or suffered financial loss, the authority should also consider whether it is appropriate to pay for loss of interest as well. The Local Government Ombudsman recommends the standard rate set by the County Court; and
- it may also be appropriate to calculate a financial remedy as a formula which takes into account all known factors.

### 6.4.3 The Local Government Ombudsman provides helpful advice on a wide range of issues relating to redress on its website:

[www.lgo.gov.uk](http://www.lgo.gov.uk).

## 6.5 Deferring (freezing) decisions

6.5.1 If the complaint is about a proposed change to a care plan, a placement or a service, the decision may need to be deferred (frozen) until the complaint is considered. However, care should be taken if deferring a decision is likely to have a significant effect upon the mental or physical wellbeing of an individual.

6.5.2 The decision to defer should normally be made through detailed discussion and risk assessment between the Complaints Manager and the manager responsible for the service, within the context of the work being undertaken with the child or young person. Decisions need to be made on a case-by-case basis, but there should generally be a presumption in favour of freezing, unless there is a good reason against it (for example, if leaving a child or young person where they are would put them at risk). In cases where decisions are met with opposing views, advice should be sought from the appropriate

Director in the local authority.

## **7 RELATIONSHIP WITH OTHER PROCEDURES**

### **7.1 Working with other procedures**

7.1.1 Every local authority is likely to have other procedures that have a significant bearing on the complaints procedures. These might include:

- child protection;
- court proceedings;
- grievance procedures; and
- disciplinary procedures.

7.1.2 It is important that relationships between procedures are clear and that the content is consistent. Procedures may also need to link with those within the NHS and other agencies contributing to services. For example, NHS staff may become involved in family support and child protection work. Other agencies who may be involved in services to children include education establishments, housing authorities, voluntary and private child care organisations, the Probation Service and the Police.

7.1.3 It is essential that local authorities separate out complaints appropriate to other procedures and cases where joint action is required. The Complaints Manager should provide advice to staff, including consideration of whether to freeze social work decisions until any concurrent investigations are resolved. There should be effective coordination between the agencies involved and complainants should be provided with clear information as to how inter-agency matters will be dealt with.

7.1.4 In considering a complaint which is subject to concurrent investigation under one of the above procedures, local authorities should be careful not to do anything that may compromise or prejudice the other investigation. In such circumstances, the Complaints Manager should be mindful of developments and liaise closely with other staff.

### **7.2 Grievance and disciplinary procedures**

7.2.1 Complaints procedures should be kept separate from grievance procedures, (which concern staff issues e.g. conditions of service) and disciplinary procedures (which apply to the actions of staff in relation to failures to comply with job descriptions).

7.2.2 Where complaints contain an element of grievance or discipline, the local authority should keep the child or young person and its staff informed about progress in handling both the complaints and the disciplinary or grievance elements as appropriate having regard to normal staff confidentiality.

7.2.3 Staff can feel confused and intimidated by systems which reinforce an implication of culpability if a member of staff is named in a complaint. Staff should be reassured that they should not be held personally liable for carrying out resource decisions or allocations of service, according to the authority's criteria. In most cases they will have been named because they are the person best known to the user or carer.

### **7.3 Concurrent investigations**

7.3.1 The handling of a complaint may coincide with action under the disciplinary procedures or on occasion, Police investigation.

7.3.2 The local authority should ensure that alternative procedures can run concurrently



with the complaints procedure. For example, a complaint about a deficiency in service may also bring to light issues of a disciplinary nature. If there are still substantive issues around the deficiency in service to be resolved, the fact that disciplinary procedures commence is not a reason to stop the complaints process carrying on in respect of the service issue (unless to do so would compromise or prejudice the concurrent investigation).

7.3.3 Decisions on how to proceed should be based on individual cases. Local guidance may be necessary on how priorities are identified and decisions made in relation to them. Local guidance should draw clear distinctions between a complaint, a grievance, legal proceedings and the reporting of a matter that is a criminal offence. The local authority will need to consider how best to inform children and young people which procedure is being applied in their case and why.

7.3.4 The local authority should also make clear to staff (and trades unions and professional associations) that consideration of the complaint is separate to any necessary action under the grievance or disciplinary procedures. Staff should be kept informed of progress of the complaint, but not given any details that would breach confidentiality or work against the child or young person's best interest.

7.3.5 The local authority has discretion not to commence the complaints investigation where to proceed with it would compromise a concurrent investigation under another statutory or internal procedure (regulation 8). If the local authority decides not to commence the complaints process, it must write to the complainant explaining the reasons for its decision and specifying the relevant concurrent investigation. The local authority should also inform the complainant of his right to resubmit his complaint once the concurrent investigation is concluded and that he must do this within 1 year of the conclusion of the concurrent investigation (regulation 8(5)). The local authority should also keep the complainant up to date with progress on the concurrent investigation.

## **7.4 Cross-boundary issues**

7.4.1 A potential area of confusion can arise around boundaries between the local authority's responsibilities and those of other bodies delivering services on behalf of the authority. This can happen, for example, where the local authority provides domiciliary care to the household of a child with disabilities through a private agency, and the child wishes to complain about aspects of this service.

7.4.2 Cross boundary issues can occur among:

- children's homes;
- children's day care providers;
- Domiciliary Care Services;
- contracted agencies and multi-agency services;
- multi-agency Health Service packages; and
- single or joint assessments.

7.4.3 It is important that the local authority is alert to cross-boundary issues and that the Complaints Manager has protocols in place for the successful handling of these complaints. Partner agencies should have appropriate procedures of their own in place for responding to complaints in the first instance.

## **7.5 Complaints made to a local authority about an NHS body**

7.5.1 Sometimes a complaint crosses over boundaries between a local authority and the NHS. Where this happens, children and young people should not have to worry about who they should approach with complaints about different aspects of the service they receive. Instead, the complaint can be made in its entirety to any one of the bodies involved.

7.5.2 The local authority has a responsibility to work with other bodies to establish which agency should lead on handling the complaint and to ensure that the complainant is kept informed and receives as comprehensive a reply as possible. Both bodies should aim to address the complaints as fully as possible by answering questions, providing information and attending meetings in connection with the consideration of the complaints where appropriate. Both the local authority and the NHS staff should consider meeting the child or young person together if this will facilitate a more effective outcome.

7.5.3 Ideally, both investigations should be completed simultaneously and reports delivered to the child or young person together. In order to facilitate this, the two bodies should aim to work to the shorter of their respective complaints procedure timescales.

7.5.4 The arrangements set out above for identifying a lead body apply only where the matters raised concern both bodies. However, sometimes, one body receives a complaint about the actions of another. This can happen where the child or young person does not understand which organisation is responsible for which service, but can also happen where there is an important issue of trust – a child or young person might, for example speak to a social worker he trusts about concerns over his treatment by the NHS or approach a District Nurse about a carer employed by the local authority.

7.5.5 The Complaints Manager of the body receiving the complaint should record the outline of the complaint and, with the consent of the complainant, refer it formally to the other. It should then be for the Complaints Manager of the body complained against to make sure the complaint is dealt with properly.

## **7.6 Complaints involving regulated services**

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

7.6.2 Complaints are likely to arise from the following issues:

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

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

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

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

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

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

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

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

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

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

7.7.1 The Care Standards Act 2000 and the Health & Social Care (Community Health & Standards) Act 2003 define the role of the regulator in social care (currently the Commission for Social Care Inspection). The regulator's role is to ensure compliance with the Regulations and associated National Minimum Standards.

7.7.2 Complaints Managers should also establish good communication with the regulator to ensure clarity in handling complaints involving regulated care services. Assumptions should not be made that a matter of complaint is the responsibility of one agency or another without agreeing the respective lines of accountability.

7.7.3 The regulator is not a complaints agency and has no statutory duties or powers for the investigation of complaints about either care services or local authority social services. It can only consider matters relating to the provider's compliance with regulations and National Minimum Standards. It should also not be seen as a mediator between care service providers and those commissioning or using a service.

7.7.4 Where the regulator receives information indicating a concern, complaint or allegation about a care service, it undertakes an assessment of that information and the accumulated evidence about the care service to determine the nature of its response. In the case of concerns and complaints, the regulator normally refers the matter to the care service provider and/or commissioning agency (where applicable). This highlights the importance of complaints procedures for both care services and local authorities.

7.7.5 However, in certain circumstances the regulator should undertake direct enquiries using its powers of inspection. This will most commonly be where there has been a breach of regulations indicating the need for the regulator to issue recommendations and requirements, or to take other enforcement action.

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

7.8.1 Where a complainant has other related complaints that do not fall within this statutory procedure, the local authority may wish to consider whether there are advantages in accepting these into a single investigation. If the local authority does not feel that would be beneficial it should apply the following guidance.

7.8.2 Building links with the local authority's other complaints procedures can be an essential way to develop the overall corporate obligation of the local authority to provide a high quality service. Local authorities are encouraged to offer a complete single response where possible, for example where a child or young person has complaints relating to both a local authority's housing service and its children's services.

7.8.3 The Complaints Manager responsible for children's services should liaise with other staff as relevant. These members of staff should agree who will take the lead, to make sure that the complainant is kept informed and, wherever possible, gets a single, clear reply that covers all aspects.

7.8.4 The local authority should also respond as promptly by meeting the shorter of whichever timescales apply and should ensure that this process is not confusing for the child or young person.

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

7.9.1 Where consideration of a complaint leads to concerns about the welfare of

children, these should be referred immediately to local authority children's social care or the Police. The handling of any associated complaint can be suspended if necessary.

7.9.2 The welfare of children is a corporate responsibility of the entire local authority. The local authority should work in partnership with other public agencies, the voluntary sector, and service users and carers. Local authorities have the lead responsibility for the establishment and effective functioning of Local Safeguarding Children Boards (LSCBs), which co-ordinate the way local agencies including the Police, education services and housing services work together to safeguard and promote the welfare of children.

7.9.3 Where enquiries have been conducted under Section 47 of the Children Act, 1989, a Child Protection conference may be held. This brings together family members, the child (where appropriate), and those professionals most involved with the child and family to consider information about the child's developmental needs (i.e. health and development) and decide what future action is required to safeguard and promote the welfare of the child.

7.9.4 If there are subsequent complaints about the work of individual agencies, or their performance or the provision or non-provision of services, these should be handled in line with the particular agency's complaints process.

## **7.10 Court orders**

7.10.1 The procedure outlined in this guidance is not an appeals procedure. People wishing to appeal against Court orders should approach the Court. However, dissatisfaction about a local authority's management or handling of a child's case, even where related to a Court order, may be appropriately considered by the complaints procedure, for example, conduct of social work staff involved in Court procedures. It is for the Complaints Manager to identify whether these circumstances might be considered under this procedure. The child or young person should also be informed that the complaints procedure cannot overturn a Court decision.

7.10.2 The local authority should also consider whether any possible complaint relating to records used in Court may also constitute a challenge to accuracy of the records it holds under the Data Protection Act.

## DEFINITIONS OF ROLES

### The Complainant

The following tasks are not binding with regard to the complainant. They should instead, be used as guidance for local authorities to communicate to people wishing to complain.

The complainant will receive more effective responses to the complaint where he:

- cooperates with the local authority in seeking a solution to the complaint;
- expresses the complaint in full as early as possible;
- responds promptly to requests for information or meetings or in agreeing the details of the complaint;
- asks the Complaints Manager for assistance as needed; and
- treats all those involved in the complaint with respect.

### Complaints Manager

Key tasks for the Complaints Manager may include:

*Overseeing the Procedure by:*

- managing, developing, resourcing and administering the complaints procedure;
- overseeing the receipt and investigation of complaints that arise from problems that could not be resolved initially;
- liaising with the Independent Reviewing Officer where appropriate to identify options for resolution;
- appointing Investigating Officers, Review Panellists and Independent Persons;
- ensuring that there are no conflicts of interest at any stage between parties involved in delivering the procedure;
- co-operating with such other persons or bodies as may be necessary in order to investigate or resolve complaints.
- promoting local resolution;
- monitoring the progress of the investigation and ensuring its smooth running;
- making recommendations to the local authority on any other action to take following an investigation;
- working closely with the Panel Chair on the organisation of Stage 3 Review Panels;
- monitoring and reporting on time scales;
- maintaining a written record of complaints made, the procedure followed and the outcome; and
- compiling the annual report.

*Maintaining a customer focus by:*

- providing a sensitive, customer-focused service for representations and complaints, appropriate to the needs of children and young people;
- providing help and advice to children and young people and others who may wish to make a complaint so that they understand the options available for resolution both within the complaints procedure or alternatives routes of remedy and redress;
- ensuring that advocacy services are explained, offered and provided when

- required;
- ensuring the complainant is kept informed at all stages;
- offering advice on the response of the authority; and
- providing practical support to complainants.

*Supporting the local authority by:*

- providing guidance, advice and support to staff on management of complaints;
- supporting staff involved in all stages of the complaints procedure;
- commissioning appropriate training;
- overseeing the arrangements for publicity;
- evaluating and reporting on the numbers, types, outcomes and trends of complaints to inform practice, development and service planning;
- maintaining a pool of people with skills and training needed to conduct investigations; and
- ensuring that commitments given in responses (including adjudications) are implemented.

### **Investigating Officers (IOs)**

The Investigating Officer has overall responsibility for investigating the complaint at Stage 2. Where a member of staff, the Investigating Officer should not be within line management of the service being complained about.

The Investigating Officer's undertakings may include:

- providing a comprehensive, open, transparent and fair consideration of the complaint through:
  - sensitive and thorough interviewing of the complainant;
  - consideration of social work records and other relevant information;
  - interviewing with staff and other people relevant to the complaint; and
  - analysing information;
- preparation of the report of the investigation in a clear, plain language;
- effectively liaising with the complainant or his advocate, the Independent Person and the Complaints Manager as appropriate; and
- identifying solutions and recommending courses of action to resolve problems.

Given the importance of providing an efficient response to the complainant, the Investigating Officer will need to prioritise his work effectively and have due regard to the regulated timescales for investigation.

### **Independent Persons (IPs)**

Local authorities must involve an Independent Person (IP) in the investigation of complaints at Stage 2. The person appointed should be neither an Elected Member nor an employee of the local authority, nor a spouse of an employee or member of the authority. Former local authority staff are eligible, but good practice would suggest at least three years have elapsed since they were employed by the local authority.

The Independent Person may not undertake any other roles in the consideration of the same complaint (such as advocate, or Review Panellist).

The Independent Person should:

- ensure that the process of investigation is open, transparent and fair;
- work alongside the Investigating Officer to provide an independent and objective view to the investigation of complaints;
- see the same relevant files and documents as the Investigating Officer;
- participate in all interviews and discussions relevant to the investigation;
- read the Investigating Officer's report and produce his own report on the investigation;
- comment on each of the complaints and state whether he agrees with the Investigating Officer's findings on them; and
- explain, where necessary, his reasons for considering an investigation to be unfair or incomplete and to advise the complainant of these in his report.

### **Advocates in the complaints procedure**

The role of the advocate was established under the Advocacy Services Representations Procedure (Children) (Amendment) Regulations 2004. The advocate should provide independent and confidential information, advice, representation and support to the child or young person making the complaint. The role of the advocate in the complaints procedure is:

- to empower the child or young person by enabling him to express his views wishes or feelings, or by speaking on his behalf;
- to seek the resolution of any problems or concerns identified by the child or young person by working in partnership with child or young person and only with his agreement;
- to support the child or young person pursuing a complaint through every stage of the complaints procedure and to provide him with information about his rights and options, helping him clarify the complaint and the outcomes he is seeking; and
- to speak for or represent the child or young person at any stage of the complaints process, including at the informal stage or at any formal hearing or interviews.

Further detailed guidance can be found in *Get it Sorted: Providing Effective Advocacy Services for Children and Young People making a Complaint under the Children Act 1989*. Department for Education and Skills, 2004.

### **Senior managers**

A senior manager, within the context of this guidance, is a manager in the local authority with a senior position to make strategic decisions regarding service delivery. This role would ordinarily be met by an Assistant Director or above (though specific designations will vary within each local authority).

Senior managers fulfil two specific roles and should liaise with the Complaints Manager as necessary in delivering these:

### **Adjudicating Officer**

The purpose of the Adjudicating Officer is to consider the complaints, the Investigating Officer and Independent Person's findings, conclusions, and recommendations and the complainant's desired outcomes.

The Adjudicating Officer should invite the complainant to an adjudication meeting, either



before or after writing his adjudication.

The Adjudicating Officer writes to the complainant at the end of Stage 2 with details of the adjudication which:

- confirms the local authority's response to the report;
- gives his view on whether the investigation has been thorough and complete;
- states his position on the Investigating Officer's and Independent Person's findings against each point of complaint;
- states any actions that he will be taking and their timescale for implementation;
- confirms the complainant's right to request Stage 3 within 20 working days; and
- reminds the complainant of his right to approach the Local Government Ombudsman at any time.

The Adjudicating Officer should issue the details of the adjudication with the investigation report and the Independent Person's report.

He should also release the reports to his staff as appropriate.

### **Local authority representative at the Review Panel**

The local authority should ordinarily be represented at the Stage 3 Review Panel by the same senior manager who acted as Adjudicating Officer. Where the Adjudicating Officer delegates this role, he should do so to a member of staff with sufficient status in the local authority to represent it.

The Adjudicating Officer should represent the local authority, however, where he has rejected any of the Investigating Officer's findings at Stage 2 or where the Panel Chair requests his attendance.

The local authority representative should:

- provide further information to support the local authority's position;
- consider whether any other member of staff should attend to address specific issues and request their attendance through the Chair;
- prepare a presentation to give to the Panel on the day;
- keep all staff involved in the complaint, but who are not attending the Panel, informed of the proceedings; and
- act on any recommendations from the Panel (as required by the Director).

### **Review Panellists**

The Panel consists of a Chair and two other people appointed by the local authority. All Panel members must be independent – this means people who are neither members nor officers of the local authority to which the representations have been made, nor the spouse or civil partner of such people. In appointing the Panel Chair, former members or officers of the local authority may be considered on a case-by-case basis, but good practice suggests that three years should have elapsed since.

The panellists should:

- read Panel papers in advance of the meeting;
- attend for the entirety of the Panel and contribute to the consideration of the

- complaint through the Chair;
- support the Chair by taking an active part in the decision making process;
- contribute to deliberations and the wording of the Panel's findings; and
- provide relevant opinion based on any specialist skills, knowledge and awareness that they have in respect of the presenting complaint.

### **Independent Chair of the Review Panel**

The role of the Chair is to:

- confer with the Complaints Manager about the specific needs of the complainant;
- agree who will attend as the local authority representative and request the attendance of any other persons who may assist in understanding the complaint and its context;
- chair the Panel meeting by ensuring that the complaint is heard in full;
- operate flexibly in response to the individual needs of each Panel member;
- ensure that the Panel runs smoothly and that each participant is given an opportunity to contribute appropriately;
- ensure that all participants are treated with respect throughout the process;
- in consultation with the other Panellists, ensure that the premeeting, presentations and deliberations are of proportionate length to ensure appropriate consideration of the complaint and to enable the Panel to reach its conclusions;
- manage the Panel's deliberations to produce a timely and full response to the complainant and local authority within five working days of the Panel meeting;
- ensure that any disagreements of position among the Panellists are recorded and seek to reach a majority decision where necessary; and
- be available to meet local authority staff, if needed, after the Panel meeting to discuss any recommendations arising.

### **Clerk to the Panel**

The local authority will need to provide administrative support for the operation of the panel which may be in the form of a clerk. It may be sensible for this role to be filled by a separate officer to that of the Complaints Manager. The clerk should assist in the appointment of the Panel through to the production of its final recommendations to the local authority.

Tasks the clerk might undertake include:

- organising the venue, facilities and refreshments;
- distributing written submissions from the complainant and the authority;
- supporting the Complaints Manager and Chair as required;
- ensuring that procedure on the day is adhered to;
- taking notes to facilitate the Panellists' decisions;
- specifying with the complainant whether he will be bringing any representatives or witnesses with him and assist as necessary; and
- providing administrative support to the Chair and Panel to produce and issue the final recommendations to the local authority complainant and other attendees within five working days.

### **Independent Reviewing Officers**

Independent Reviewing Officers (IROs) do not have a role in instigating the complaints

procedure themselves, and should not stand in the way of complaints being made. They will have a role when they meet children to inform them that they have a right to make complaints to the local authority, and of the local authority's responsibility to provide them with an independent advocate should the child so wish.

The IRO may be part of the solution to the problem, and the Complaints Manager may consult with the IRO to determine what options are available. An outstanding formal complaint using the local authority's complaints procedure should not prevent the IRO from fulfilling their role in resolving problems by negotiation. The IRO may have a role in communicating both with the child and with the Complaints Manager. The IRO should not prejudice the complaints procedure but their work may help to speed up the process or even hold a key to its resolution. The IRO should become involved in serious complaints concerning children's care plans. They should not usually need to get involved in more minor complaints about a child's day to day care.

In all cases the welfare of the child is the primary concern. IROs will need to make a judgement about whether a problem raised via a complaint is serious enough to constitute a breach of the child's human rights such as to justify making a referral to CAFCASS, or whether it would be reasonable to await a resolution through the complaints procedure, with or without additional support of the IROs own negotiation.

For more information on the role of the Independent Reviewing Officer, please refer to *Independent Reviewing Officers Guidance: Adoption and Children Act 2002*. Department for Education & Skills 2004.

## GOOD PRACTICE ON INVESTIGATIONS FOR INVESTIGATING OFFICERS

### *General Points*

1. Be aware of the timescale and the importance of providing a thorough investigation;
2. Work closely with the Complaints Manager, Independent Person and advocate where appropriate on all aspects of the investigation and report writing including keeping the complainant informed of progress;
3. If the media is involved (e.g. local / national press, television or radio) notify the Complaints Manager and maintain strict confidentiality;
4. Consider the environment the investigations are conducted in – some places may be intimidating or distressing for children and young people in particular;
5. Question whether an unannounced visit to the establishment complained to check normal practice would be helpful; and
6. Adhere to relevant conventions and legislation such as Data Protection Act, Health and Safety Act and the Human Rights Act and the United Nations Convention on the Rights of the Child.

### *Getting Started*

7. Contact the complainant, ideally by phone, to offer a meeting in person. This meeting should explain the investigation procedure and;
  - a. allow the complainant to explain how he feels and express any strong emotions – he should feel as if his complaint has been accepted;
  - b. clarify the complaint and all its individual parts and produce a written record;
  - c. ask what the complainant wants in terms of solution or outcome;
  - d. check whether the complainant needs support of any kind, in order to understand the discussion properly; and
  - e. determine whether he needs support during the process e.g. an advocate.
8. Read background on the complaint and the relevant legal and administrative policies and procedures;
9. Consider whether the complaint could be resolved without further investigation; and
10. Assess whether the complaints procedure is the most appropriate way of handling this complaint. Consider alternative possible procedures, for example alternative dispute resolution (such as mediation), appeals to tribunals, legal action and police involvement. If the complaints procedure is not appropriate, discuss the alternatives with the Complaints Manager.

### *Planning the Investigation*

11. Obtain all documentation needed including original versions of documents such as files, log books and timesheets;
12. Produce a chronology of the sequence of events from the files and identify the names of the individuals most directly involved in content of the complaint;
13. Analyse and categorise the complaint into its different elements;
14. Identify a list of interviewees and notify them that you wish to hold interviews with as much notice as possible. Supply them with relevant information on the complaint in advance of the interview;
15. Arrange the order of interviews in a logical sequence as relevant to the particular

- complaint;
16. Inform all those to be interviewed that they may be accompanied by a friend or trades union representative, provided that this person is not within normal line management arrangements with the interviewee and that there are no issues of confidentiality;
  17. Consider whether a witness of a particularly difficult interview is needed – this is also a good way of training new investigating officers; and
  18. Prepare the line of questioning for each interviewee.

### *Interviewing*

19. Explain the complaint and your role clearly to the interviewee and confirm that they understand the complaints procedure and their role in it;
20. Conduct the interviews in an informal and relaxed a manner, while ensuring that due process is adhered to;
  - use open not leading questions;
  - do not express opinions in words or attitude; and
  - ask single not multiple questions, i.e. one question at a time;
21. Try to separate hearsay evidence from fact by asking interviewees how they know a particular fact;
22. Persist with questions if necessary. Do not be afraid to ask the same question twice. Make notes of each answer given;
23. Deal with conflicting evidence by seeking corroborative evidence. If this is not available, discuss with the Complaints Manager the option of a meeting between the conflicting witnesses; and
24. Make a formal record of the interview from the written notes as soon as possible while the memory is fresh. Show the interviewee the formal record, ask if he has anything to add, and to sign the record as accurate.

### *The Investigation Report*

25. Draft your report and show it to the Complaints Manager. The Complaints Manager will advise on local practice. The draft report should include:
  - Chronology;
  - List of interviewees;
  - The complaints set out in a numbered list;
  - Your analysis and findings for each point of complaint;
  - A record of relevant policy, practice and legislation;
  - Your recommendations and response to the complainant's desired outcomes;
  - Any other relevant information; and
  - A separate addendum for any other issues for the local authority;
  - Consider comments from relevant persons such as the Complaints Manager, Independent Person and amend the report as necessary; and
  - Notify the Complaints Manager that the final report is complete, he will advise you as to how this will be released.

This Annex is based on information originally published in *The Right to Complain* and compiled with the help of the Office of the Commission for Local Administration (the Local Government Ombudsman).

## EARLY REFERRAL TO THE LOCAL GOVERNMENT OMBUDSMAN

Where the presenting facts indicate that reasonable, appropriate consideration of the complaint has been undertaken at Stage 2 and that further consideration by the Review Panel would not produce a demonstrably different outcome, the Complaints Manager should discuss with the complainant the possibility of referring the complaint to the Local Government Ombudsman.

The authority can only consider this option once Stage 2 has been concluded and the complainant has received the authority's final position on the complaints.

There are a number of important safeguards that must be in place before proceeding with this option. Stage 2 must have delivered:

- a very robust report;
- a complete adjudication;
- an outcome where all complaints have been upheld (or all significant complaints relating to service delivery in respect of the qualifying individual);

and,

- the local authority is providing a clear action plan for delivery; and
- the local authority agrees to meet the majority or all of the desired outcomes presented by the complainant regarding social services functions.

Where this is the case, and the complainant agrees, the Complaints Manager can then approach the Local Government Ombudsman and ask him to consider the complaint directly, without first going through a Review Panel.

It is important to note that the Ombudsman has the power to investigate complaints made by members of the public in writing. Therefore the local authority and the complainant will need to agree a written statement of the complaint for release, by the authority, to the Ombudsman.

The Ombudsman will then apply a test of reasonableness to this decision. If the Ombudsman concludes that early referral was incorrect, he may select from a range of responses. This may include proposing that the complaint is considered by the local authority at a Stage 3 Review Panel in the normal manner.

Early referral of the complaint will also not restrict the Ombudsman from later consideration of the complaint if he so chooses.

## GUIDANCE ON UNREASONABLY PERSISTENT COMPLAINANTS

When local authorities are committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who complain, they will not normally limit the contact complainants have with their offices. However, there are a small number of complainants who, because of the frequency of their contact with the local authority, hinder consideration of their own complaints.

Where a local authority encounters unresolvable and persistent complaints, it should consider all aspects of why this situation may be developing.

It is also important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who make unreasonably persistent complaints.

If the complainant is persisting because his complaints have not been considered in full then the local authority must address this (normally by invoking the next stage). However, if the authority has already done so and has demonstrated this to the complainant, then the Complaints Manager should consider whether the complainant is now inappropriately persistent. The following guidance should only be pursued where absolutely necessary.

### Persistent complainants

Features of a "persistent complainant" may include:

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

### Unreasonably persistent complaints

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

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

There are a number of principles that the authority can apply. The most important being that the complainant receives the same standard of response as any other service user, and that the authority can show that it has not discriminated against the persistent complainant.

If the situation is challenging but it is possible to proceed, staff should avoid giving unrealistic expectations on the outcome of the complaint.

### **Action in response**

Where the relationship becomes unworkable, the Complaints Manager should ensure that he demonstrates that he has considered the complaints as fully as is appropriate. This should normally be through advising the complainant that:

- he does not constitute a person who may complain and/or that his complaints do not fall within the relevant criteria for what may be complained about;
- the local authority has either offered or provided consideration of the issues through another procedure (e.g. the corporate complaints procedure);
- the local authority will consider the substantive issues at all stages of the complaints procedure; or
- the matters raised are not sufficiently different to justify being considered as a new complaint.

Where the local authority has attempted to move the complaint on to the next stage but the complainant has either refused or delayed such progression through excessive objection to the process rather than addressing the substantive issues of the complaint themselves, the local authority should advise the complainant that this is causing delay and is unreasonable use of the complaints procedure.

In some instances, abusive, threatening or other unreasonable behaviour may be a feature of the complainant's disease or mental illness (e.g. chronic anxiety). In such cases, if possible, the local authority should consider securing a whole case review from all professionals involved. The local authority should refer to the Mental Capacity Act.

In all cases where the Complaints Manager decides to treat someone as an unreasonably persistent complainant, he should write to tell the complainant why he believes his behaviour falls into that category, what action he is taking and the duration of that action. He should also inform the complainant how he can challenge the decision if he disagrees with it (this should normally include information regarding the Local Government Ombudsman).

Where a complainant's complaint is closed and he persists in communicating about it, the Complaints Manager may decide to terminate contact with that complainant.

### **Restricting access**

The decision to restrict access to the complaints procedure should be taken by the Complaints Manager and should follow a prior warning to the complainant. Any restrictions imposed should be appropriate and proportionate. The options that the Complaints Manager is most likely to consider 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;
- asking the complainant to enter into an agreement about his future contact with the local authority; and



- informing the complainant that if he still does not cooperate with the advice given, any further correspondence that does not present significant new matters or new information will not necessarily be acknowledged, but will be kept on file.

Any new complaints from people who come under this policy should be treated on their individual merits.

In extreme cases, the local authority may consider the following actions:

- Referring the complaint to the Local Government Ombudsman before the complaints procedure has been exhausted (see Annex 3); or
- Advising the complainant that it cannot assist further and informing them of their right to approach the Local Government Ombudsman.

The distinction between the two options above is that early referral to the Local Government Ombudsman is a positive action that can only be undertaken in agreement between the local authority and the complainant. This is therefore the less likely option with persistent complainants.

Option 2 may arise where the local authority does not agree with the complainant that the complaints are substantively valid and the two parties disagree on the way forward. This is more likely with a persistent complainant. Should the local authority take this option, it should not contact the Local Government Ombudsman directly, but should indicate to the complainant that he may make this approach. The local authority should confirm to the complainant that it is not responding to the complaint further.

The Local Government Ombudsman is likely to apply the test of reasonableness over the local authority's response in a similar manner to an early referral and will have a range of options open to him.

## **GUIDANCE ON UNACCEPTABLE BEHAVIOUR**

It is anticipated that this guidance should only apply to a very small number of complainants. It covers the possible escalation of a situation between the local authority and a complainant from unreasonably persistent behaviour to unacceptable behaviour.

### **Dealing with complainants**

When local authorities are committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who complain, they will not normally limit the contact complainants have with their offices. However, the authority should not expect their staff to tolerate behaviour by complainants which is unacceptable. The local authority should take action to protect staff from that behaviour, including that which is abusive, offensive or threatening.

When the authority considers that a complainant's behaviour is unacceptable it should tell him why it finds his behaviour unreasonable and ask him to change it. If the unacceptable behaviour continues, the authority may wish to take action to restrict the complainant's contact with its offices. In all cases, the local authority should write to tell the complainant what action it is taking and the duration of that action. The authority should also tell the complainant how he can challenge the decision if he disagrees with it (which may be through approaching the Local Government Ombudsman rather than any procedure provided by the local authority itself).

### **Restricting access**

The decision to restrict access to its offices should be taken by the Complaints Manager in consultation with colleagues. Any restrictions imposed should be appropriate and proportionate. The options the authority is most likely to consider are:

- requesting contact in a particular form (for example, letters only);
- requiring contact to take place with a named officer;
- restricting any telephone calls to be specified days and times;
- asking the complainant to enter into an agreement about his conduct; and
- applying its policy on unreasonably persistent complainants.

The Complaints Manager should record the option selected and inform the authority's senior management of the action being taken. The local authority may wish to set a time limit on the duration of any restrictions applied to the complainant.

The local authority may also invite the complainant to appeal this decision to the senior management. This will ensure that there is an avenue for consideration of the restrictions.

### **Terminating contact**

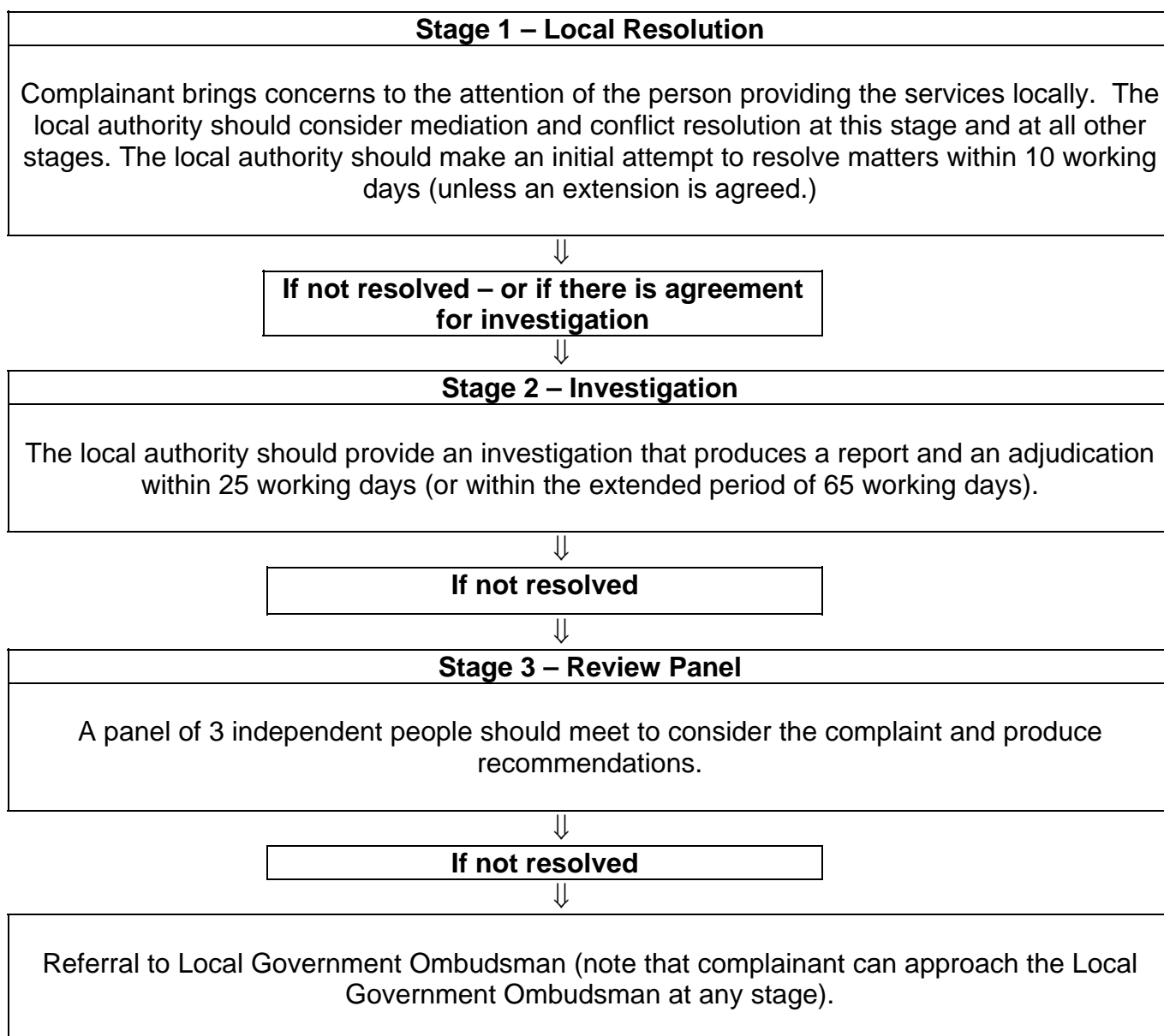
Where a complainant continues to behave in a way which is unacceptable, the local authority may decide to terminate contact with the complainant and discontinue any investigation into the complaint.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of staff, the authority should consider other options, for example reporting the matter to the

Police or taking legal action. In such cases, the authority may not give the complainant prior warning of that action.

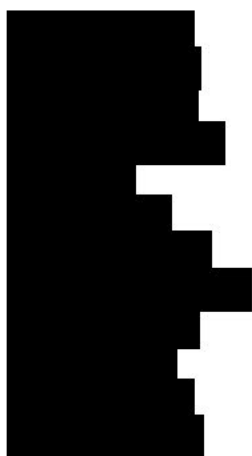
In following this guidance, the Complaints Manager should refer to the Mental Capacity Act and all relevant human rights based legislation.

## THE NEW PROCEDURE FOR CHILDREN ACT 1989 COMPLAINTS



## ACKNOWLEDGEMENTS

### Complaints Working Group



Commission for Social Care Inspection  
Commission for Social Care Inspection  
National Children's Homes  
Local Government Ombudsman  
Local Government Association  
Office of the Parliamentary & Health Service Ombudsman  
Age Concern  
Local Government Ombudsman  
Southwark Social Services  
Association of Directors of Social Services  
National Assembly for Wales  
National Complaints Officers' Group

Thanks also to:



Independent Consultant  
Commission for Social Care Inspection  
London Borough of Brent

## **1. Section 17 and “other crisis/support payments”**

Section 17 of the Children Act 1989 states that it is the general duty of every local authority to safeguard and promote the welfare of children within their area who are in need; and so far, as it is consistent with that duty, to promote the upbringing of such children by their families. The local authority must do this by providing a range and level of services appropriate to those children's needs.

This policy and the financial limits contained within are to be applied to “other” such payments to support children and families where appropriate.

## **2. Provision of s17 Financial Assistance and Other Payments**

To meet the requirement for provision the following 3 rules must be confirmed before assistance can be provided.

- 1. All alternatives should be explored with the family to assist in accessing and utilising their existing resources to the best effect and support the family in becoming self-sustaining, prior to any application for funding.**
- 2. All other avenues for support should be explored – charities etc.**
- 3. Support should be provided to ensure all benefits are claimed for – income support, universal credit, housing benefit, child tax credit, working tax credit etc....**

Before giving any assistance or imposing any conditions, a local authority shall have regard to the means of the child concerned and of each of the child's parents.

The management of the budget and compliance, as well as the Local Authority financial regulations, within which this guidance operates, rests with the Service Leads and Practice Director. As part of monthly monitoring checks will be made by Finance staff.

## **3. Types of s17 Financial Assistance**

All financial assistance is a one-off payment. There may be exceptional circumstances where multiple payments are required.

### **Allowable expenditure**

- Food
- Gas
- Electricity
- Clothing
- Toiletries
- Nappies and baby milk
- Appropriate Transport costs / reimbursement of mileage costs

- **Special assessments or testing** if required prior to care proceedings. Recommended providers of assessments must be obtained by our Legal representatives and experts. This will ensure that the Company undertaking such assessments are recognised through the courts and fees are in line with the reasonableness of such work.
- **Interpreter and Translation Costs.** Consideration is to be given to whether this could be an extended family member or family friend or community worker including teaching staff with the carers permission if it will not be detrimental to the intervention. It is important that any section 47 enquiries or disclosure interviews always have an independent professional interpreter.
- Failure of arrival of benefits or tax credits.
- When the service user has **been denied benefits** because of her/his immigration status, particularly if Job Centre Plus staff are claiming that the person is not 'habitually resident' in the UK or the person has 'no recourse to public funds' as a condition of their stay in the UK.
- If a young person is being **Accommodated under S20**, in independent living or is being financially supported under S24. (The benefit position of young people and care leavers is often complex, and the detailed advice should be sought in individual cases)
- **Day care for pre-school and other children** (*Please consider eligibility under the criteria of 2,3- & 4-year-old early years grant funding – is this being accessed, and funding utilised to the maximum before seeking financial support, this can be confirmed by contacting the Provider, the Early Learning & Childcare Team or Finance*). *Quality checks should also be made. The period of payment must be considered in relation to the financial limits set out in section 4.*
- **Support to Intentionally Homeless Families 16- and 17-Year Old's** - When a homeless family or young person requests support (The benefit position of the family or young person is often complex and the detailed advice should be sought in individual cases).
- **Providing Financial Support to Secure or Maintain Tenancies.** It can be increasingly difficult for low-income families to secure rental properties. Children Services often work with families who have significant rent arrears or have been deemed intentionally homeless, and there are concerns that this may impact on the parenting they are able to provide for their children. Under Section 17 of the Children Act, we are able to provide some level of financial assistance for families in relation to housing if this is assessed to be appropriate, but this cannot be reclaimed. There are certain categories where we may make payments e.g.: Rental payments for families with No Recourse to Public Funds (NRPF); 1st month rent and deposit for intentionally homeless families; but these must be carefully assessed, both in social work and financial terms, and authorised by the relevant Service Lead before being progressed.

Rent top ups or acting as rent guarantors for individuals will not be agreed under any circumstances. If the family cannot afford the rent in the area of their choice, they may need to re-locate. Any issues with progressing tenancies for service users because of this veto should be brought to the attention of the relevant Service Lead, and other options considered.

- Adoption Support – Consideration will be made for adoption support under the “other crisis” payments criteria.

### **Placements Made Under Section 38(6) - Court Directed Placements**

In some cases, a direction under Section 38(6) can result in a child being placed with a connected person who is not a parent or other person with parental responsibility. In such circumstances it is proposed that the minimum fostering allowance is paid less child benefit where applicable. We would not propose we make payments to parents of the child under this arrangement, only to those connected persons (such as Grandparents) where they are not approved under Section 38(6).

	<b>TIER 1 - weekly</b>
Age	National Minimum
0-2 years	134
3-4 years	138
5-10 years	153
11-15 years	172
16+	202

In the 2020/21 tax year, you can claim child benefit: £21.05 per week for your first child. £13.95 a week for any further children.

Any agreement must be agreed with the service manager or lead and reviewed in a timely fashion.

Before giving any assistance or imposing any conditions, a local authority shall have regard to the means of the child concerned and of each of the child's parents. Advice can be provided by the Finance Team.



## 4. Financial Levels of Delegation

All requests for financial assistance should be made by the Social Worker (form at appendix 1) with the supporting welfare issue that needs addressing and the alternatives that have been explored. The form must be countersigned by the relevant manager.

Financial Approval Limits (total cumulative spend)	Authorised to Sanction
£1 to £250	Team Manager
£250 to £1,000	Service Manager
£1,000 to £5,000	Service Lead and to Panel – Edge of Care and Placement Stability
£5,000 - £100,000	Decision Notice / Practice Director / DCS <sup>1</sup> See <a href="#">"How Decisions are Taken"</a> – Internal Resource.

It is expected that all proposed expenditure is submitted for approval and agreement through the delegated power.

Repeat requests for funding needs to be supported with background information to substantiate the need. In relation to ongoing financial assistance the maximum number of weekly payments is 6 weeks, any repeat requests to extend these payments must be approved in line with the above schedule of authorisation (based on the cumulative total).

This policy was discussed and approved at the CSC Business Meeting 18/03/21 by the Practice Director.

Please contact [REDACTED] (Strategic Finance Manager – Childrens Services and Schools)

## APPENDIX 1

### Cost Centre Codes

EY353 = Crisis Payments – Children In Need (Section 17)

EY354 = Crisis Payments – Looked After Children Cases / Other

Account Code	Description
<b>Document Section 3</b>	
1202	Electric
1203	Gas
3200	Food & Drink
3300	Clothing, Uniform & Laundry
3411	Personal Needs (e.g. Toiletries/Nappies etc.)
3000	Equipment, Furniture & Materials (e.g. Safety Equipment/Bedding etc.)
2450	Travel Expenses (Travel Costs Associated to Families)
3401	Professional Fees (e.g. Specialist Assessments etc.)
3401 (Cost Centre EY520)	Professional Fees (for Forensic/DNA/Legal Paternity Tests only)
3401	Professional Fees (e.g. Interpreter/Translation Fees)
4362	Private Day Care (e.g. Day Care/Nursery Fees)
<b>Document Section 3 (Financial Support)</b>	
3409	Payments to Carers (e.g. Financial Assistance)
<b>Document Section 3 (Rent &amp; Tenancies)</b>	
1252	Rent
<b>Staff Expenses*</b>	
2300	Employee Transport Costs
3501	Employee Subsistence

**\*Please note that costs relating to staff travel expenses and subsistence should be claimed via payroll, in exceptional circumstances where costs are incurred via purchase card these should be coded to the applicable budget code that the staff's salary is coded to & not EY353 or EY354.**

**Purchase Cards – all spend via purchase cards must be supported by a completed form approved in advance, as per the schedule of authorisation on page 4.**

**For all purchase card transactions, it is the cardholder's responsibility to ensure that the receipts are uploaded onto the system on time, if the goods are vatable a VAT receipt must be obtained & the appropriate VAT code entered when reviewing your transactions. All expenditure must be coded appropriately, please ensure the account code is amended subject to what the spend relates to (see above account code list).**



**S17/SUPPORT PAYMENT FORM**

Team Name:

Name of Child and Family:

LL Child ID:

Full Address

**Reason for Request:** (One off or Recurring, If recurring review date – Admin to note and monitor)

**Please confirm the following;**

All alternatives have been explored with the family to assist in accessing and utilising their existing resources to the best effect and support the family in becoming self-sustaining

All other avenues for support have been explored – charities, food banks etc

All benefits are claimed for – income support, universal credit, housing benefit, child tax credit, working tax credit etc

Amount Requested

£

Budget Code

VAT (if applicable) £

Total Approved: £

Review Date

Method of payment – Admin Only

Cash  Vouchers  Payment card  Invoice  Bus Pass  Bank Account  Y

Date: .....

Officer Signature:

Print Name.....

Date:

Approved by (Manager):

Print Name .....

Admin Sign off .....

Recorded on spreadsheet	
Scanned and saved to child in LL	
Recorded on costs tab / LL	

If Bank Details

Full Name of Account Holder : .....

Name of Bank : .....

Bank Account Number : .....

Sort Code: .....

Date Payment made/scanned to finance: .....

Receipts attached: YES/NO

EY353 CIN or EY354 LAC – delete as appropriate