

14 January 2014

Children and Young People - Annual Complaints Report
(18 month including new complaints procedure)

Ward(s) All

Portfolios: Cllr R Andrew – Children and Young People

Executive Summary:

This annual report (**Appendix One**), covers the period of 1 April 2012 through to 31 March 2013, as well as the first half of 2013/14 (April-September) and reports on complaints made by, or on behalf of children and young people who receive support / services from Children's Social Care in Walsall. It is a statutory requirement to produce an annual report and make it available to the public, staff and elected members. The arrangements for the statutory procedure and management of complaints from children and young people (or their representatives) are set out in *The Children's Act 1989 Representation Procedure (England) Regulations 2006*.

The purpose of this report is to provide an overview and analysis of all complaints and compliments received and to summarise the issues that have arisen, providing a mechanism by which the Directorate can monitor the quality and effectiveness of services and of its complaints procedure.

A key element of this year's report is the review of the effectiveness of the complaints procedure, building on feedback from the 2012 and 2013 Ofsted Inspections of Safeguarding and Corporate Parenting, and to improve how we listen to and learn from those who are unhappy with any element of our service. The report contains a draft new procedure for implementation (**Appendix Two**)

Reason for scrutiny:

It is a statutory requirement to produce an annual report and make it available to the public, staff and elected members.

Members are asked to review the findings in the report and in particular the changes proposed to improve the management of and learning from complaints going forward and make any recommendations on this.

Recommendations:**That:**

1. The Annual Complaints Report is noted
2. Members provide any comments or recommendations they wish on the new complaints procedure

Background papers:

N/A

Resource and legal considerations:

The arrangements for the statutory procedure and management of complaints from children and young people (or their representatives) are set out in *The Children's Act 1989 Representation Procedure (England) Regulations 2006*. This requires the publication of an annual report to be made available to the relevant committee of the council.

Citizen impact:

An effective complaints procedure provides a mechanism through which we can listen and learn to our service users and improve the service we deliver to them. This report provides an overview of performance against the procedure and also proposes improvements to that procedure going forward.

Environmental impact:

None directly

Performance management:

Complaints provide an important mechanism through which we can learn about the performance of services and, when aligned with other forms of intelligence can be used to inform and drive improvements.

Equality Implications:


The report contains equalities monitoring information to ensure that there is fair and equitable access to the procedure for all our service users regardless of equalities characteristics.

Consultation:

The new procedure has been consulted on with various managers across the service whose views have gone into shaping the version presented.

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Complaints and Representations Annual Report

April 2012-September 2013

Children and Young People

Author:	Colin Teasdale\Heather Maybury
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1. Introduction

This annual report covers the period of 1 April 2012 through to 31 March 2013, as well as the first half of 2013/14 (April-September) and reports on complaints made by, or on behalf of children and young people who receive support / services from Children's Social Care in Walsall. It is a statutory requirement to produce an annual report and make it available to the public, staff and elected members. The arrangements for the statutory procedure and management of complaints from children and young people (or their representatives) are set out in *The Children's Act 1989 Representation Procedure (England) Regulations 2006*.

A complaint is an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response. Anyone who is in receipt of a service or think they should be in receipt of a service may complain, or a representative may a complaint on their behalf.

The Complaints Manager has the key responsibility for managing the statutory process for complaints from children and young people (or their representatives) about the quality of that service. The purpose of this report is to provide an overview and analysis of all complaints and compliments received and to summarise the issues that have arisen, providing a mechanism by which the Directorate can monitor the quality and effectiveness of services and of its complaints procedure.

A key element of this year's report is the review of the effectiveness of the complaints procedure, building on feedback from the 2012 and 2013 Ofsted Inspections of Safeguarding and Corporate Parenting, and to improve how we listen to and learn from those who are unhappy with any element of our service.

2. Number of Complaint Investigations

2.1 Stage One

There are three stages to the formal complaints procedure set out by *The Children's Act 1989 Representation Procedure (England) Regulations 2006*, though the aim is to deal with as many of these as possible at the first stage of the procedure which involves local investigation by the manager of the team or service involved.

In 2012/13 there were a total of 111 complaints made, this is a small decrease from the previous year (129) however for the first half of 2013/14 (1 April to 30 September), there have already been a total of 110 complaints showing a sharp increase with nearly the same in 6 months as were received in the previous 12.

In considering the number of complaints received, it is important to view that in the context of the number of cases Walsall Children's Services deals with each year. During 2012/13, there 5613 unique cases dealt with and the 111 complaints received related to just 88 (1.6%) of these cases. In the first 6 months of 2013/14 there have been 3880 unique cases to date and the 110 complaints received related to just 73 (1.9%) of these cases.

12/13

Service Area	Number of complaints	Number of unique cases that gave rise to a complaint
Vulnerable Children	40	31
Looked After Children	23	17
Children's residential	14	8
Initial Response	12	11
Children's disability	11	10
Family Placements	4	4
Transition and leaving care	3	3
Independent reviewing Officers	2	2
Universal Services	2	2
Total	111	88

April 12-September 13

Service Area	Number of complaints	Number of unique cases that gave rise to a complaint
Vulnerable Children	26	22
Looked After Children	36	18
Children's residential	20	7
Initial Response	7	7
Children's disability	7	6
Family Placements	6	6
Transition and leaving care	5	5
Prevention	1	1
School Transport	2	1
TOTAL	110	73

2.3 Escalated Complaints

Of the 111 complaints made in 2012/13, 6 progressed to Stage 2 of the Complaints Procedure, which requires an independent investigation. In April-September 2013, 2 complaints progressed to Stage 2.

None of these complaints progressed to Stage 3 of the procedure, which is a Review Panel made up of 3 independent members.

2.4 Local Government Ombudsman

The LGO investigate complaints of injustice arising from maladministration by the Local Authority, which may include looking at complaints both in relation to the provision of social services and in relation to the operation of the complaints process. They can also investigate complaints about how the Local Authority has carried out these processes. The Local Authority concerned must have an opportunity to investigate / respond to a complaint before they will become involved. If the LGO is satisfied with the remedial action offered by the council, the complaint will be regarded as 'locally settled' and the investigation is discontinued. Before reaching that decision, the LGO will usually consult the complainant, but is not bound by their views.

During 2012/13 LGO investigations were initiated into 5 complaints. Of these 1 is still pending a decision, 2 were discontinued as complaint was locally settled and one was fully investigated but found no fault in the Council's actions.

One investigation led to the publication of a report of maladministration that has been reported to Scrutiny and Cabinet. The remedies suggested in this report were agreed by the Council and have been implemented.

There was one LGO investigation between April and September 2013, this was discontinued as the complaint was locally settled.

2.5 Unreasonable and Unreasonably Persistent Complaints

Unreasonable or unreasonably persistent complainants are those that, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other customer's, complaints, and the ability of officers to provide a quality service to customers as a whole.

The Council has a procedure in place for handling such complaints which sets a necessarily high bar for restricting contact, including Executive Director sign-off. Application of this procedure does not prevent complainants from raising genuinely new complaints or accessing other council services. The procedure has only been applied once in children's services in this period.

2.6 Compliments

There were 31 compliments received during 2012/13 and a further 2 in the first half of 2013/14. Examples of compliments include:

“Without intervention, I fear our predicament could have been a lot worse, the worker was extremely professional, understanding and showed compassion and empathy; she is a credit to the service she works for and we as a family are indebted to her”

“I have to say we have benefitted from a fantastic experience so far during (name of child) visits to the school which have not been without their challenges but at the same time we have felt so secure working within an excellent multi-agency approach. It is clear that their willingness to work openly and intuitively with other agencies is hugely benefitting children in your care.”

“We received (child’s name) life story book and it’s lovely. You’ve explained something so difficult in such a lovely way. We can really imagine looking through it with (child’s name) when she’s older.”

3. Which customer groups made the complaints?

GROUP	NUMBER	PERCENT
Young person	27	24.3%
Family member	69	62.1%
Foster carer	8	7.2%
Staff	2	1.8%
Advocate	4	3.6%
Solicitor	1	0.9%

The most complaints made on behalf of young people continue to be received predominantly from relatives of children and young people. The number of complaints made directly by young people is proportionately more than last year.

4 complaints were received via directly from an advocate, though advocacy is offered to all children and young people who make a complaint directly. The Children's Society provides this service and over the last year they have supported a number of people to make compliments and complaints. Advocates also work with staff in children's services in order to resolve the issues and prevent complaints.

4. The Types of Complaints Made

The top ten issues complained about in this period (April 2012-Sep 2013)

1. Poor communication
2. A service not being provided
3. Inaccuracies in reports
4. The attitude of staff
5. Disagreement with decisions made
6. Delays in receiving service
7. Lack of family contact
8. Missed appointments
9. Lack of support
10. Lack of consultation

5. The Outcome of Complaints

The emphasis at Stage One of the Complaints procedure is on reconciliation and resolution rather than the more confrontational approach of assessing complaints as either upheld or not upheld. However an analysis of manager's findings does show that in nearly half of complaints some improvements and changes were required in the Council's actions.

At Stage 2, the investigator is required to make an independent judgment as to whether or not they uphold the complaint. Of the investigations that have taken place in this period, the following findings were recorded:

2012/13

Complaint	Number of issues	Upheld	Not Upheld	Partially Upheld	Inconclusive
1	15	6	1	6	2
2	6	4	1	0	1
3	4	2	0	1	1
4	2	2	0	0	0
5	11	1	3	2	5
6	15	9	2	2	2

April-September 2013

Complaint	Number of issues	Upheld	Not Upheld	Partially Upheld	Inconclusive
1	10	5	1	1	3

The other Stage 2 investigation in this period is still outstanding at the time of writing this report.

6. Timeliness of Complaint Responses

	Statutory Timescales	Number of complaints	Average Days	Percentage within timescales
2012/13	10 working days	48	12	54.2%
	20 working days	50	24	40%
First 6 months of 2013/14	10 working days	62	10	59.7%
	20 working days	34	19	61.8%

The legislation requires stage one complaints to be dealt with within 10 working days, though this may be extended to 20 working days, in agreement with the Assistant Director, in cases where the issues are particularly complex.

Whilst there has been some small improvement in the first half of this year (despite an increase in numbers), it is clear that there is more that needs to be done to improve the timeliness of complaint responses. This remains a challenge with heavy workloads across all teams but there is clear evidence that the early resolution of issues prevents more work further down the line.

7. Learning from Complaints

Complaints are an integral part of understanding where our services are not meeting the needs or expectations of services users, and where staff can make improvements to the way they work, and the quality of services. By senior managers evaluating the learning gained from making improvements to service delivery complaint issues can be turned into positives outcomes for young people.

Delays- a common issue in complaints related to the time taken to complete a particular action, including arranging for something to happen or sending a copy of information promised. In looking at the reasons for these delays, whilst they often related to capacity issues there is a clear lesson in terms of managing the expectation of customers, feeling able to ask for help early and also in planning workloads to take account of leave etc.

Voice of the Child- a number of those complaints that came directly from a child or young person related to them feeling like they were not being listened to, or that their wishes were being ignored. This was a theme also picked up by the Ofsted inspection and significant work has been carried out within the Improvement Plan to improve how the Voice of the Child is captured and acted upon. It is important to recognise that complaints of this nature are themselves another expression of the child's voice and the culture of complaint handling should reflect the importance of this.

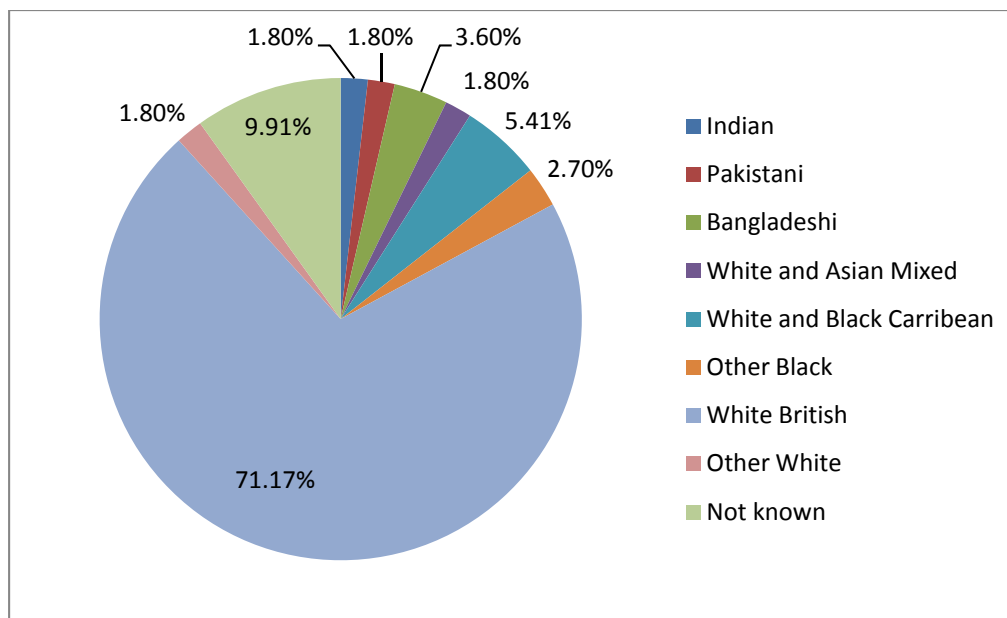
Communication- A number of complaints relate to the way the customer feels about the way they were spoken to. Whilst these types of complaints are often difficult to reach a judgement on, as they are based on perception and are often one person's word against another, they do provide an opportunity for social workers and teams to reflect on their communication skills, whilst recognising that having to deliver difficult messages is often likely to result in some unhappy customers.

8. Equalities Monitoring

As part of our commitment to ensure that the service is accessible to all and to reduce inequality, monitoring is undertaken against ethnicity, religion, gender, and disability.

Complaints were evenly split on gender lines, with 49% female, 47% male and the remainder joint complaints from a male and female couple.

On ethnicity 71.7% classed themselves as White British, with 9% from an Asian or mixed Asian background, and 8% from a black or mixed black background. As shown in the chart below. This closely resembles the population statistics for the overall children in the care system, where 68% were classed as white British and 25% from an ethnic minority background



Religion was not recorded in nearly 80% of cases, but of those that did choose to provide their religion 48% identified themselves as having no religion, 30% as Christian, 13% Muslim, 4.5% Hindu and 4.5% Sikh.

10% of complainants identified themselves as having a disability.

9. Review of the effectiveness of the complaints procedure

The Ofsted inspections of 2012 and 2013 highlighted complaints, and in particular learning from complaints as an area for improvement for the council. A new procedure has been developed, which is now being implemented and forms an addendum to this plan, key changes include:

- An agreed set of principles to help promote a cultural shift in complaint handling
- A shift in responsibility at stage one of the procedure to provide more emphasis on direct contact between the complainant and the manager with a view to swifter resolution
- New reporting structures to promote more systematic analysis and dissemination of learning as well as monitoring of compliance and timeliness. This will include weekly reports to Assistant Directors and monthly analysis at Operations Manager meetings and quarterly Board reports
- Greater emphasis on early resolution both before and during the formal complaints process
- Improved clarity over escalation routes, underlining the customer's legal right to a Stage 2 investigation whilst recognising mediation as a productive alternative with their agreement

The roll out of a new training programme will support embedding the new procedure. As well as traditional face to face training targeted at managers investigating complaints, e-learning will also be used to reach a wider audience.

Complaints and Representations Procedure- Children and Young People

“Listening and Learning to be Better Together for Children”

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1. Policy Statement

Walsall Children's Services are committed to working 'better together for children', amongst other things this means being responsive to all forms of feedback, putting things right quickly where they have gone wrong and learning from what people are telling us to constantly improve.

A robust and responsive complaints procedure is a key factor in showing that professionals working with children, young people and families are open to challenge and willing to learn, are able to communicate effectively and demonstrate that they make decisions in a transparent, open and honest way.

We aim to resolve all complaints at the earliest opportunity and believe that the best way to do this is through open and honest dialogue with the complainant. We will seek to understand things from their perspective and value their feedback as an important learning tool

2. Principles

- **The welfare of the child is paramount** - Where the complaint highlights a safeguarding concern, make the appropriate referrals and take the necessary action without delay. Do not delay or change a course of action that is necessary to protect the safety and well-being of a child because a complaint has been made but evaluate properly what is needed.
- **Whoever the complainant, listen to the Voice of the Child** - Allow the child or young person the opportunity to express their own wishes and feelings (use an advocate if necessary).
- **Respect for equality and diversity of complainants** - Understand and respect the diversity of their customers and ensure fair access to services regardless of background or circumstances.
- **Issues resolved at earliest point to avoid progression to next stage** - If we have failed to do something, or to do something right, take action straight away.
- **Be open not defensive** - Put yourself in the complainant's shoes and try to understand it from their perspective, where we have failed to do something right or not done it at all, apologise directly and even where we haven't made mistakes, empathise with their feelings and look at how we might have handled things better.
- **Engage proactively with the customer to understand their views** - Value direct contact and use accessible language in both investigating the complaint and explaining your findings.
- **Examine root cause of issue and seek to address that** - Why has the issue occurred? What could have been done differently to prevent it? Could anything have been done earlier to prevent the issue becoming a formal complaint?
- **Learning is embedded into practice and shared routinely to identify patterns** - Use supervision and team meetings to review complaints received and feedback to staff on learning.

3. Quick Guide for Children's Workers

If a child or family you are working with want to make a complaint:

- Listen to what they have to say.
- Find out what they want to happen about it
- Record it on the case file
- Tell the Complaints Officer

Can you sort it out yourself?

In most cases, staff who have regular contact with a family and know them well will be able to address problems or concerns by talking through issues and looking for solutions. If you think you can resolve the concerns quickly, speak to the child and / or family about this. Tell them what you are going to do and how long it should take. Give them contact details for the Complaints Officer in case they are not happy with this. Work with the child or family to find a solution to the problem. If you can't change a decision or plan e.g. because of a court order, explain the reasons clearly. Get advice and support from your line manager regarding what can and can't be done to find a solution.

What happens if you can't resolve it?

Make sure the child or family know how to contact the Complaints Officer. If they need help with this you should provide it. Alternatively they may choose to write to one of the managers.

STAGE ONE:

A manager will consider the complaint. The Service Manager and Complaints Officer will decide who does this. They may interview you about the case and the complaint, and may check the information in case files. They will offer to meet with the family, and may ask you to attend. They will then send a written response to the child / family. This should not take more than 10 working days. If the complaint is complex the investigation manager can ask the Assistant Director for an extension of a further 10 working days.

STAGE TWO:

If the complainant is not happy with the outcome of their Stage One response, they have a right to escalate this to Stage 2, though we may try to resolve via other means first (e.g. mediation.) An independent investigator and an Independent Person will be appointed to investigate the complaint. The independent investigator will not have been involved in previous consideration of the complaint or work within the service concerned, the independent person will have experience of work in children's social care, but do not work for Walsall. The investigator may interview you about the case and the complaint and check the case files. The Independent Person oversees the work of the investigator to ensure fairness. The investigator will report on which elements of the complaint have been upheld and which have not. S/he will make recommendations on what the service should do regarding any

points that are upheld. The Assistant Director will then respond on behalf of the Service. This should normally be completed within 25 working days.

STAGE THREE:

Where a complainant remains unhappy, they can request a Stage Three review panel, though we may decide that early referral to the Ombudsman is more appropriate (see below.) Three independent people, who have not previously been involved in the complaint, will be appointed as a review panel. The role of the Panel is not to re-investigate the complaint but to establish whether the service has made every effort to resolve the complaint and to detail if any more can be done. The Panel will make recommendations for the consideration by the Director of Children's Services. The Director's response to recommendations forms the end of the complaints process.

THE LOCAL GOVERNMENT OMBUDSMAN:

Where a complaint has exhausted the Council's complaints procedure, the complainant may decide to complain to the Local Government Ombudsman (LGO.) The LGO will investigate any maladministration by the local authority. They will review the previous stages of investigation and may ask for additional information; this could involve seeking your views, though this will be done via the Council's LGO Link Officer who works in the Corporate Complaints team. If the complaint is upheld the LGO will make recommendations on the action the local authority should take.

Please note that at every stage, the purpose should be to try to resolve the complaint as quickly as possible. The complaints process is an opportunity to collectively and individually learn and improve what we do and not a mechanism through which to apportion blame.

4. Scope

The Complaints and Representations Procedure exists for users of Walsall Children Services to provide feedback about social care services received in the form of compliments, comments and complaints. Its purpose is to help us to 'listen and learn to be better together for children.' A complaint is an expression of dissatisfaction or disquiet in relation to services delivered to an individual child or young person, which requires a response. Service users and their carers may also have enquiries, make positive remarks or have service delivery improvement suggestions to give to us.

This procedure is for representations, including complaints, made by children and young people. It also applies to parents, foster carers and other adults making a complaint.

It should also be acknowledged that those in receipt of a service should be able to express their views with regards to the service they receive, or the establishment they live in, without having this framed as a complaint.

4.1 Where a complaint raises vulnerability or harm issues

The safety and protection of a child or young person is a higher priority than the investigation of the complaint. If they are at risk of harm, child protection procedures should be instigated immediately. Any other aspects of the complaint are put 'on hold' and if appropriate are resumed, as soon as the issue of protection and safety has been concluded.

4.2 Who may complain?

Anyone who is in receipt of a service or think they should be in receipt of a service. Also their representative, known as a 'qualifying individual' may complain on their behalf.

The Local Authority has the discretion to decide whether or not the 'qualifying individual' is suitable to act on behalf of the child or young person or has sufficient interest in their welfare. If they do not meet this requirement, they should be notified in writing giving an explanation (the Complaints Manager should discuss this decision with relevant managers as appropriate).

4.3 How to make a complaint

Complaints can be accepted in any format which the complainant chooses – including

- orally
- in writing
- text message or
- website facility

4.4 What can be complained about?

Some examples are given below – this is not an exhaustive list.

- An unwelcome or disputed decision.
- Concern about the quality or appropriateness of a service.
- Delivery or non-delivery of services.
- Quantity, frequency, change or cost of a service.
- Attitude or behaviour of staff.
- Poor / lack of communication.
- Application of eligibility and assessment criteria.
- Assessment, care management and review.
- The quality or accuracy of a social work report.
- Control of parental contact.

4.5 What cannot be complained about?

The Council will treat any complaint received seriously, however there are some circumstances in which we cannot carry out a formal investigation or it would not be reasonable to do. Some examples are given below – this is not an exhaustive list.

- Disciplinary proceedings.
- Criminal proceedings.
- Grievance proceedings.
- Complaints from staff about personal issues.
- Where an appeals process already exists.
- Where a Court or Tribunal has made, is making, or is about to make a determination on the specifics of the complaint (in these instances it is usual to consult with the Legal Team for confirmation /clarification).
- Where the same complaint has previously been dealt with through all stages of the complaints procedure.
- Complaints about issues that are over 12 months old, except at the discretion of the local authority in circumstances where it is reasonable to do so (for example where there is a genuine reason why the complaint was not made sooner and the complaint can still be investigated effectively and efficiently, or where the child or young person was not able or confident to make the complaint earlier.)

4.6 The Law

The Children Act 1989 as amended by the Adoption and Children Act 2002 imposes a duty on every local authority to establish a procedure for considering any representations, including complaints, made by children, young people, parents, foster carers and other adults about the discharge by the local authority of any of their functions in relation to a child.

The Children Act 1989 Representations Procedure Regulations 2006 set out how the procedure should work.

It is strongly recommended that this procedure be read in conjunction with 'Getting the Best from Complaints' (link below). 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.

<https://www.education.gov.uk/publications/eOrderingDownload/Getting%20the%20best%20from%20complaints.pdf>

4.7 Non-statutory Complaints

Any complaints relating to children's services that do not fall within the legal definition of a statutory complaint under the Children Act 1989 Representations Procedure Regulations 2006 will adhere to the same principles as for statutory complaints and the same process will be followed up to the end of Stage One. Whilst mediation may be offered after Stage One, there is no right of access to Stages Two and Three of the procedure and the complainant may be referred to the Local Government Ombudsman. Services should liaise with the Complaints Team regarding the resolution of non-statutory complaints and when referral to the LGO may be appropriate.

5. Procedure

The below paragraphs and flow chart shows the process for handling complaints which should be read in conjunction with the guidance notes at the end of this document and the roles and responsibilities below.

5.1 Informal Resolution

Whilst complaints are a valuable form of feedback, it is recognised that often where a formal complaint is received, opportunities to resolve the issue may have already been missed. It is not the intention of this procedure to cause any unnecessary delay in reaching a satisfactory outcome to a concern. Where a concern is raised and the service area is able to resolve it, either by fixing the issue, offering an apology or an explanation, then this should be done without the need to submit a formal complaint. Where this is not possible, or where the person remains unhappy, then the full details of the formal complaints procedure should be provided and full support given to the individual to submit complaint.

5.2 Stage One – Local Resolution

The initial complaint that comes in can sometimes go directly to the Team Manager of the service rather than the Complaints Team – either way the Complaints Team should be informed to monitor and record the complaint.

The Complaints Team will allocate the complaint to an appropriate manager from the service

The stage one investigation and response is carried out by the Team Manager or Operational Manager, or if they have been named in the complaint, then the Head of Service may be approached. The investigating manager should contact the complainant at the earliest opportunity, ideally by phone or face to face to discuss their complaint with them. The purpose of this contact should be to seek to understand the issues from the perspective of the complainant and where possible try to resolve them there and then, though it should be followed up with a letter or email confirming the details of the discussion and what has been agreed.

Sometimes an issue may require further investigation and involve speaking to key individuals and reviewing case notes etc. In these circumstances the complainant should be informed of the action you intend to take and when they can expect to hear further.

10 working days is the expected timescale for a full response to the complainant, this begins from the date the complaint first reaches the authority, regardless of which team it is sent to. It is therefore vital that complaints are actioned straight away.

The 10 working days may be extended if the complaint is complex, or an advocate is required. Any extension should be agreed with the Assistant Director and will be granted in exceptional circumstances only; the complainant should be kept informed of any extension and the reasons. Whatever the agreed deadline for a complaint, it should be completed as soon as possible.

A copy of the response should be shared with the Ops Manager or Head of Service for approval and, once finalised should be sent directly to the complainant and copied to the Complaints Team.

Whilst we aim to resolve all complaints at Stage One, at the conclusion of the response, the complainant must be informed of their right to progress their complaint to stage two if they remain dissatisfied. They should do this within 20 working days.

5.3 Stage Two – Independent Investigation

The Complaints Manager will oversee the stage two process.

In some circumstances it may be felt that an alternative escalation route would be more beneficial, this could include mediation in order for issues coming out of the Stage One investigation to be discussed and clarified in an open and honest way. Any alternative would need to be agreed with the complainant who retains the right to a Stage Two investigation if this is their wish.

The Complaints Manager will appoint an Independent Investigator to carry out the investigation, this may also involve the appointment of an Independent Person and / or an Advocate for the complainant where appropriate (e.g., where a young person is making the complaint).

If at any stage during the investigation, the Investigator believes that the complaint is now capable of early resolution, then the department will suspend the complaint investigation.

The expected timescale for a response to the complaint is 25 working days. If an Advocate is required or there are exceptional circumstances, as with stage one, this may need to be extended with agreement of the Assistant Director.

The Head of Service will respond to the complainant in writing enclosing the Investigator's report (and the Independent Person's report where appropriate). However the service may consider that a discussion may more easily resolve the complaint and will offer a resolution meeting to the complainant in its written response.

At the conclusion of the stage two response, the complainant must be informed of their right to progress to stage three if they remain dissatisfied. They should do this within 20 working days, though again, it should be the aim of the Stage 2 process to resolve all aspects of the complaint without progression to Stage 3.

5.4 Stage Three – Review Panel *(for further information, see Guidance Note 4)*

If the complainant remains unhappy and is in disagreement with the outcome reached, they are entitled to request that their complaint goes to review panel. This is the third and final stage of the Statutory Complaints Procedure. Further consideration of the complaint can include, in a limited number of cases, early referral to the Local Government Ombudsman (see Guidance note 3). Otherwise, the complainant retains the right to proceed to a Review Panel.

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 their 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.

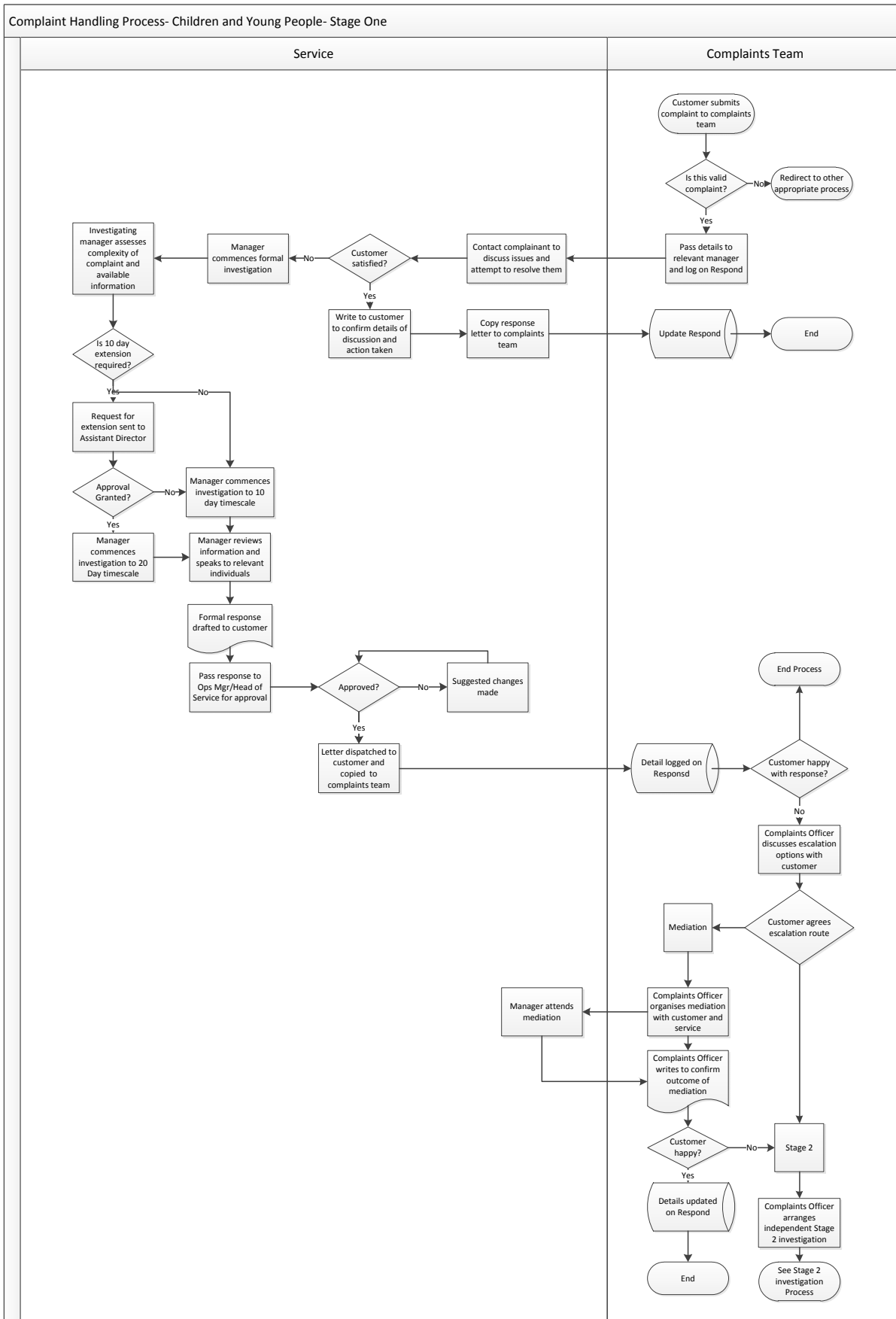
The Panel will consist of three independent members (one to be Chair.) Independent means a person who is neither a member nor an officer of Walsall Council, nor the spouse or civil partner of such a person. The Independent Person appointed to Stage 2 may not be a member of the Panel

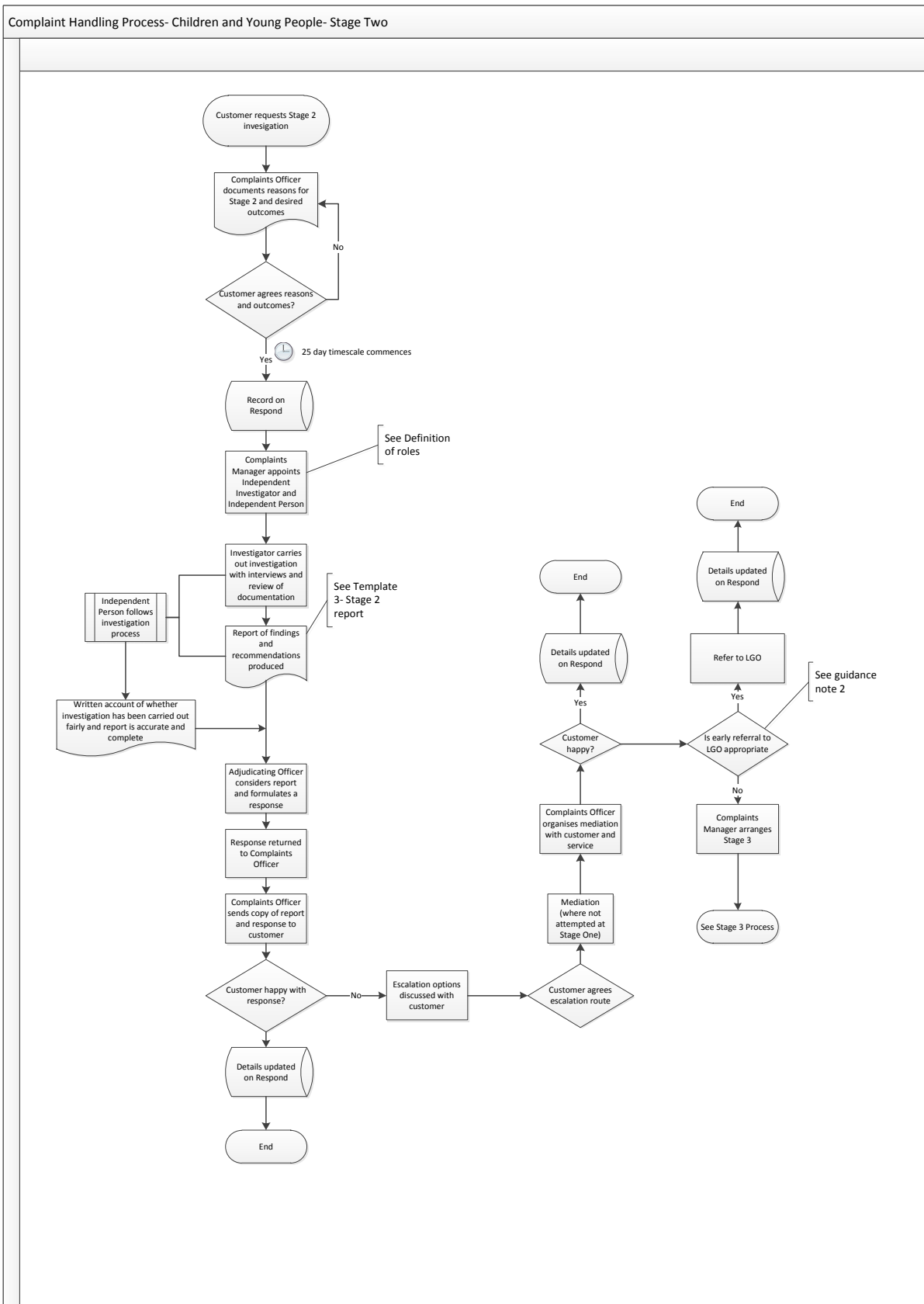
The Panel will focus on the complainant's desired outcomes, with a view to a resolution.

The Director will write to the complainant informing them of the final decision reached.

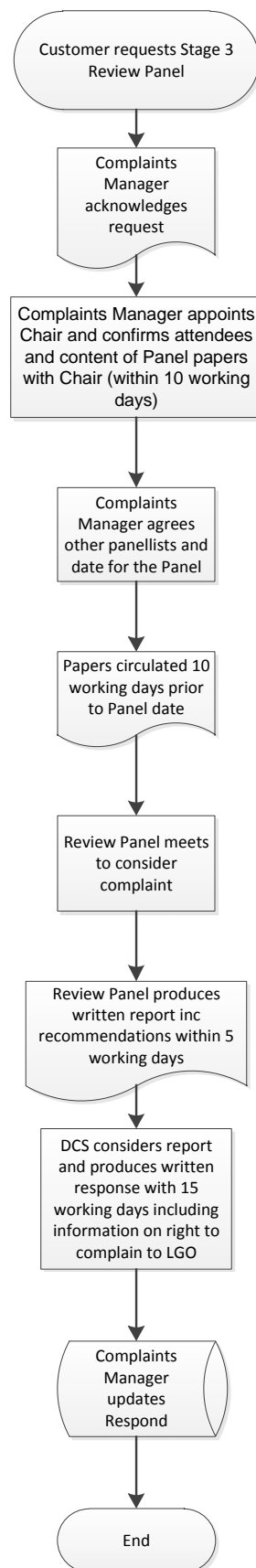
On completion, should the complainant remain dissatisfied, they will be advised on how to contact the Local Government Ombudsman by the Complaints Manager.

Appendix Two





Complaint Handling Process- Children and Young People- Stage Three



6. Local Government Ombudsman (LGO)

The LGO investigate complaints of injustice arising from maladministration by the Local Authority, which may include looking at complaints both in relation to the provision of social services and in relation to the operation of the complaints process. They can also investigate complaints about how the Local Authority has carried out these processes.

When necessary the LGO will inform the complainant that the Local Authority concerned must have an opportunity to investigate / respond to a complaint before they will become involved. For example, if the complainant goes direct to the LGO without having first made the complaint to the council allowing them the opportunity to investigate and respond. However in exceptional circumstances the LGO will consider an early referral from the council (this is done on a case by case basis, see Guidance Note 6- Escalating a complaint).

The LGO are impartial. When they receive a complaint, they are on the side of neither the complainant nor the respondent Authority. They are there to defend Authorities against unjustified allegations as well as to seek remedies for those who have been wronged. Of course, if the LGO do find that something has gone wrong and that a person has suffered in consequence, they will do their utmost to obtain a satisfactory remedy. They will not question what has been done simply because the complainant does not agree with decisions made.

If the LGO is satisfied with the remedial action offered by the council, the complaint will be regarded as 'locally settled' and discontinue their investigation. Before reaching that decision, the LGO will usually consult the complainant, but is not bound by their views.

7. Roles and Responsibilities

7.1 All Staff

- Taking ownership of customer's issues to resolve them at the earliest opportunity
- Providing information and support to customer who wish to make a formal complaint
- Cooperating with the investigation manager in a timely way to allow for the investigation and resolution of a complaint
- Reacting positively in using complaints alongside other feedback as an opportunity for reflective learning
- Applying learning from complaints into practice

7.2 Investigating Manager (Stage One)

- To investigate, and provide a response within timescales
- To consider complaint from the customer's perspective and be open and honest on their response
- To engage proactively with the customer to seek a resolution to the complaint
- To engage constructively and sensitively with staff involved in order to inform findings and identify learning
- To implement any agreed resolution as soon as possible
- To share learning within their team
- To provide a copy of the Complaint response to the Complaints team in a timely fashion

7.3 Complaints Manager

The complaints manager is responsible for:

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, with appropriate contractual arrangements for external investigators; and
- Ensuring that commitments given in responses (including adjudications) are implemented.

7.4 Assistant Director

The Assistant Director has three roles in the context of the complaints procedure-

- Approval of extensions to Stage One timescales;
- Approval and implementation of strategic level learning based on intelligence from complaints;
- To act as Adjudicating Officer in the consideration of Stage Two complaints.

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 view on whether the investigation has been thorough and complete;
- states position on the Investigating Officer's and Independent Person's findings against each point of complaint;
- states any actions that they will be taking and their timescale for implementation;
- confirms the complainant's right to request Stage 3 within 20 working days.
- Act as the Council's representative on any Stage 3 review panel relating to the complaint

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

They should also release the reports to staff as appropriate.

7.5 Independent Investigator (Stage 2)

- Bring to the attention of the complaints manager any potential conflicts of interest in investigating the complaint at the earliest opportunity;
- 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;
- Identifying solutions and recommending courses of action to resolve problems.
- Having due regard to confidentiality and the requirements of the Data Protection Act 1998 in handling all sensitive and personal information
- Prioritise work effectively and have due regard to the regulated timescales for investigation.

7.6 Independent Person (Stage 2)

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 at least three years should 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 their own report on the investigation;
- comment on each of the complaints and state whether they agree with the Investigating Officer's findings on them; and
- explain, where necessary, reasons for considering an investigation to be unfair or incomplete and to advise the complainant of these in the report.

7.7 Advocate

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\her to express their views, wishes or feelings, or by speaking on their behalf;
- to seek the resolution of any problems or concerns identified by the child or young person by working in partnership with the child or young person and only with their agreement;
- to support the child or young person pursuing a complaint through every stage of the complaints procedure and to provide them with information about their rights and options, helping them clarify the complaint and the outcomes they are 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.

7.8 Review Panel Chair (Stage Three)

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 participant is given an opportunity to contribute appropriately;
- 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 pre-meeting, 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.

7.9 Review Panellist (Stage 3)

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 panellist 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.

8. Remedies

A decision to rectify matters can be made at any stage and should be done at the earliest possible opportunity where the Council is clearly at fault. Such forms of remedy can take the following:

- **An apology:** This is the correct outcome for most upheld complaints. These must be direct and unambiguous. It is the Council that makes the apology, unless an individual member of staff wishes to apologise in their own right.
- **Re-assessment of need:** This will need to be done promptly, in order that the new service (if any) can be started promptly and the complaint closed.
- **Provision or re-instatement of a service:** This will need to be started as soon as possible and the complaint closed.
- **Change of procedure to prevent reoccurrence:** Confirmation should be given to the complainant as to what the change will be, and when it will be implemented.
- **An ex-gratia payment:** Management may feel that it may be appropriate to recognise shortcomings either in the service provided, the way the complaint was handled, or the time involved for the complainant during the complaint process. The LGO provides advice on amounts applicable, to settle such local disputes.

- **The payment of restitution:** If a complaint is upheld, and the fault has resulted in material, calculable losses, then the Council can put matters right by paying the complainant a sum, which reflects that loss. This is called financial recompense. Legal services can provide further advice in this area.

The payment of **compensation** is an entirely different matter. Complainants are entitled to seek compensation through a Court of law and significant sums of money are possible. All claims for compensation should be directed through the Council's Risk and Insurance Team who will liaise with the council's insurers and legal services as appropriate.

9. Advocacy support

Sometimes, the child or young person will need extra help to make their complaint, either just at the beginning or possibly throughout the whole procedure. This may be best provided by a relative or a friend, or arrangements can be made to provide independent advocacy support.

They can request this themselves or someone can do this on their behalf, e.g., their foster carer or social worker. Alternatively the Complaints Manager can make the necessary arrangements.

10. Learning from complaints

It should be remembered that the formal complaint investigation process is not to 'find fault', but to look at the practices followed in relation to the complaint issues at hand. This also provides an insightful valuable source of information and we will use these experiences alongside other forms of intelligence to:

- Identify service problems and make improvements.
- Improve / adapt staff learning and enhance professional development.

The Complaint Handling Plan includes a section for capturing learning aligned to issues and findings, this is used at a local level for individual and team reflective learning and also collated by the Complaints team to identify patterns and ensure the dissemination of learning points.

As well as accurate recording of complaints, reporting will be essential to ensuring the identification and dissemination of complaints. Reporting will occur at 3 levels:

A weekly report to Assistant Director- will detail

- All new complaints received that week;
- All complaints outstanding along with timescales remaining or overdue;
- All stage one complaints completed along with summary of action taken;
- Summary of all escalated complaints, current stage and latest position

Monthly performance reports to Operational Managers, detailing:

- Number of complaints received;
- Timeliness of responses;
- Number of escalated complaints by escalation route;
- Summary of issues raised and any emerging patterns of trends

This information will be used to inform a peer discussion to identify:

- Learning
- Action needed improve

Quarterly performance reports to relevant board

- Number of complaints received;
- Timeliness of responses;
- Number of escalated complaints by escalation route;
- Summary of issues raised and any emerging patterns of trends
- Summary of learning identified.
- Details of any action taken or need to improve

Annual Report to Scrutiny, detailing:

- 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

It is the responsibility of the Complaints Manager to produce this and is an important part of governance function. The report is presented to the Executive Member, the Scrutiny and Performance Panel and the Walsall Safeguarding Children's Board to ensure activity is noted and any lessons learnt are shared.

Once accepted / agreed, the annual report should be available to both staff and the general public alike.

11. Data Protection

All functions of the complaint procedure must adhere to the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000 and to the Council's Information Governance Policy Framework which is available via the link below.

http://inside.walsall.gov.uk/walsall_ig_policy_framework_2013_v_1.0.pdf

Under the Data Protection Act 1998, those who collect and use personal information need to follow rules of good practice for handling information called the 'data protection principles'. The Act also gives rights to individuals whose information they collect and use. The Information Commissioner's Office (ICO) is responsible for regulating the Data Protection Act. All complaints relating to a possible breach of the Data Protection Act should be referred to the Information Rights Team informationrights@walsall.gov.uk

If a complaint is made direct to the ICO regarding the way we have handled or used personal information, the ICO will first establish that we have been given an opportunity to put things right. If we have been unsuccessful in resolving the situation to the satisfaction of the complainant, then the ICO will look into the matter concerned. The ICO cannot award compensation. Their main aim is to advise on ways to change, which will enable personal information to be handled correctly in the future.

12. Joint investigation (complaints that cross boundary issues)

Sometimes a complaint will cross the boundaries between organisations, for example, another local authority, an NHS body, the Police, a housing agency. Where a complaint crosses these boundaries, the services involved should try to assist the complainant to have their complaint dealt with efficiently whilst aiming to provide a joint resolution.

To enable the investigation to run more smoothly, one organisation should take the lead. There are many factors involved in making this decision, and the following should be taken in consideration:

- Which organisation has the most serious complaints about it?
- Whether a large number of the issues in the complaint relate to one organisation opposed to the other organisation.
- Who originally received the complaint – relevant if the seriousness and number of complaints are about the same for each organisation.
- Whether the complainant has a clear preference for which organisation takes the lead.

13. Unreasonable and Unreasonably Persistent Complaints

Unreasonable or unreasonably persistent complainants are those that, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other customer's, complaints, and the ability of officers to provide a quality service to customers as a whole. Walsall Children's Services adheres to the corporate procedure for managing unreasonable and unreasonably persistent complaints which is available here http://inside.walsall.gov.uk/index/service_information/tellus/unreasonable_and_persistent_complaints.htm

The principle that underpins this procedure is the belief that the Council is here only to serve our customers. Where the Council has failed to do something, or to do something right for a customer steps must be taken to rectify this situation and prevent it happening again in the future. In handling persistent or unreasonable complaints, the Council must first ensure that any underlying issues are resolved. The best way to achieve this is to engage positively with the customer, face to face where possible, and try to understand the issue from their perspective.

Appendix One: Guidance Notes

Guidance Note 1: GOOD PRACTICE ON INVESTIGATIONS FOR INVESTIGATING OFFICERS

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).

General Points

- Be aware of the timescale and the importance of providing a thorough investigation;
- 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;
- If the media is involved (e.g. local / national press, television or radio) notify the Complaints Manager and maintain strict confidentiality;
- Consider the environment the investigations are conducted in – some places may be intimidating or distressing for children and young people in particular;
- Question whether an unannounced visit to the establishment complained to check normal practice would be helpful; and
- 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

- Contact the complainant, ideally by phone, to offer a meeting in person. This meeting should explain the investigation procedure and;
 - ❖ allow the complainant to explain how s/he feels and express any strong emotions – s/he should feel as if his complaint has been accepted;
 - ❖ clarify the complaint and all its individual parts and produce a written record;
 - ❖ ask what the complainant wants in terms of solution or outcome;
 - ❖ check whether the complainant needs support of any kind, in order to understand the discussion properly; and
 - ❖ determine whether s/he needs support during the process e.g. an advocate.
- Read background on the complaint and the relevant legal and administrative policies and procedures;
- Consider whether the complaint could be resolved without further investigation; and
- 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

- Obtain all documentation needed including original versions of documents such as files, log books and timesheets;
- 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;
- Analyse and categorise the complaint into its different elements;
- 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;
- Arrange the order of interviews in a logical sequence as relevant to the particular complaint;
- 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;
- Consider whether a witness of a particularly difficult interview is needed – this is also a good way of training new investigating officers; and
- Prepare the line of questioning for each interviewee.

Interviewing

- Explain the complaint and your role clearly to the interviewee and confirm that they understand the complaints procedure and their role in it;
- 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;
- Try to separate hearsay evidence from fact by asking interviewees how they know a particular fact;
- Persist with questions if necessary. Do not be afraid to ask the same question twice. Make notes of each answer given;
- 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
- 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 s/he has anything to add, and to sign the record as accurate.

The Investigation Report

- 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.

Guidance Note 2: 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, s/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 s/he so chooses.

Guidance Note 3: Stage 3 Review Panel

(this guidance is taken from the Department for Education's 'Getting the Best from Complaints')

General principles

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.

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.

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.

Redress

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.

Make up of the Panel

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)).

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.

One member of the Panel should be assigned as Chair of the panel. 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.

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.

Administration of the Panel

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.

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.

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.

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.

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.

Attendance at the Panel

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.

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.

The Adjudicating Officer should attend as the authority's representative if s/he has rejected any of the Investigating Officers findings at Stage 2. Where s/he has accepted all of them, it is usually acceptable to delegate this responsibility.

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). S/he should also decide whether additional policies or procedures should be circulated with the Panel's papers.

The Complaints Manager and anyone providing administrative support should also attend the Panel.

Conduct of the Panel

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.

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

Pre-meeting

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

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.

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.

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.

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.

Deliberations

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.

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.

After the Panel

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 s/he should demonstrate his reasoning in the response. In developing his response s/he should invite comment from all the attendees including the Independent Person from Stage 2 (regulation 20(3)).

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

Appendix 2: Templates

Stage One Response Letter

A response letter at stage one should be written with the recipient in mind and the language and content tailored to their age, capacity and circumstances. It should not be confrontational but open, honest and empathetic. As a minimum it must include the following, in order:

Apology- Where the Council has failed to do something to do something right the letter should open with an apology and this should be made in a direct and unambiguous way. This should make it clear to the customer that we are not trying to excuse what has happened but put things right and learn from our mistakes.

Even where the investigation finds that the council has acted appropriately, it is still appropriate to empathise with the customer and apology for any misunderstanding that led to them feeling the need to complain

Summary of complaint- this should be written in the customer words, showing you have listened to their complaint

How you reviewed complaint- This should explain the process you have followed, including speaking to staff and reviewing case files, it should also be used to remind them of any engagement you had directly with them as a complainant and how you have noted and listened to this.

Findings- This should follow what you have completed in the complaint handling plan, though written in a way that the customer can understand

Action taken- Again, this should follow what you have completed in the complaint handling plan. You should be clear about any steps taken to resolve the complaint, re-confirming any they already know about and adding in anything else you have done to put things right. For any actions agreed but not yet implemented you should include clear timescales for completion

Learning Following what the Complaint Handling Plan you should let the customer know what learning has been identified as a result of the complaint

Right of appeal You should let the customer know what they can do if they are unhappy with the complaint, including speaking directly to you if there is anything in the letter they don't understand and also their right to escalate the complaint through the formal procedures. You should also repeat any apology offered earlier. The following suggested wording would be appropriate for this use, though again this may need to be tailored to specific circumstances:

I would like to once again apologise for... I hope you are satisfied with this response and the actions we have taken to try to resolve your complaint. If you wish to discuss any element of this letter then please contact me directly, alternatively if you wish to escalate your complaint you may do so by contacting the Complaints Team using the details below. They will be able to discuss with you your right to a Stage 2 independent investigation and also explore alternative options such as mediation.

Appendix Two

Yours Sincerely

Stage Two Report

Investigation Report should be written in a clear and accessible language and contain the following sections:

Complaints Format

Separate front cover to include:

Name of Complainant(s)

Name of Service User(s)

Name of Investigating Officer

Name of Independent Person

Summary of complaint

- Summary of complaint – full statement elsewhere in the report

Report

Statement of Complaint

- Agreed with complainant(s) at outset;
- Specific to matter for which authority has responsibility;
- Refers to any linked complaint e.g. NHS Trust, neighbouring LA.

Desired Outcome

- Within the power of the authority to provide;
- Within the power of the complaints procedure to recommend;
- Include reference to desired outcome which cannot be determined by LA procedures;

Legislation Policy and Procedures

- Legislation under which actions complained about were taken;
- Legislation under which services complained about were provided.

It is helpful for the report to identify clearly what the local authority is required to do under legislation relevant to the complaint.

Appendix Two

- Policy or procedural guidance provided to staff on the implementation of legislation;
- Information about how the policy or guidance is provided within the local authority.

Context of the Complaint

- Summary of services provided or refused relevant to this complaint.
- Factual account with reference to dates and source of information.
- Information about investigation, mediation or other form of attempted problem solving either offered, failed or refused.

Investigation

If required, a summary of persons named in report and their work roles. This can help in complex complaints reports.

- Statement of persons interviewed;
- Presence of Independent Person or Advocate;
- Dates and locations of interviews;
- Files, reports and other sources of evidence consulted;
- Investigator must prepare questions or areas of concern in advance of the interview(s). Some authorities will wish to provide these to the interviewees in advance;
- Investigation must focus on the areas of complaint;
- Interviewees should have access to investigator's notes or summary in order to check fact.

Conclusions

- Reference to each aspect of the complaint;
- Reference to evidence accepted or discarded in reaching conclusion;
- Clear statements where investigator has been unable to reach a conclusion;
- Clear distinction between opinion, 'balance of probability' conclusions and substantiated facts;
- Each complaint should be upheld, not upheld or determined as not possible to establish.

Recommendations

- Define actions required to respond to complaint, put matters right;
- Define actions required to avoid a recurrence;
- Identify where an apology is appropriate;
- Identify any suggestions for redress;
- Include time scales for action.

Independent Person comments, if separate report not submitted

Signature

Date

Supplementary report

- Closed section identifying matters internal to the organisation, management action required and systems for ensuring action on recommendations.

Version History

Revision Date	Version	Revised By	Summary of Changes
14/11/2013	0.1	C Teasdale	Initial draft
21/11/2013	0.2	C Teasdale	Incorporate feedback from HD
21/11/2013	0.3	C Teasdale	Further minor changes an addition of guidance note on completing investigations
04/12/2013	0.4	C Teasdale	Update to guidance for investigators and minor formatting and grammatical corrections
20/12/2013	0.5	C Teasdale	Changes following Ops Manager meeting
30/12/2013	0.6	C Teasdale	Feedback from RC and SB incorporated
2/02/2014	0.7	C Teasdale	Version for Scrutiny

Approvals

This document requires the following approvals.

Name	Signature	Title	Date of Issue	Version

