



## **Complaints, Comments and Compliments Policy and Procedures**

Author and owner: Customer Relations Team

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The audience of this document is made aware that a physical copy may not be the latest available version. The latest version, which supersedes all previous versions, is available on the Council's internal and external websites.

Staff members to whom this policy applies are responsible for familiarising themselves periodically with the latest version and for complying with policy requirements at all times.

### **History of most recent policy changes – must be completed**

<b>Version</b>	<b>Date</b>	<b>Change</b>
V.1.00	May 2021	New policy
V.1.01	July 2021	Minor revisions / corrections to text
V.1.02	August 2021	Addition of 12.3 Service Requests
V.1.1	March 2022	Amendment to section 6.6 and section 8.1



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## 1. Introduction

The Council is committed to providing high quality services. Feedback from citizens is welcomed as a way of demonstrating that the Council is open to challenge, ready to respond and willing to learn and improve. There is no charge for using the Council's complaints procedures.

This document sets out the policy, procedures and guidance for dealing with feedback about all Council services. There are four distinct procedures for dealing with complaints, three of which are statutorily required:

- Social care services provided to children and young people (statutory)
- Social care services provided to adults (statutory)
- Public health services (statutory)
- All other Council services (non-statutory)

For statutory procedures, the Council is required to designate a person who is responsible for ensuring the Council complies with the statutory complaints procedures. In the regulations, this person is called a Complaints Manager. In Bristol City Council, the person authorised to carry out this role is called the Customer Relations Manager. Some of the required functions are further delegated to members of the Customer Relations Team. Throughout this document, these functions are referred to as being carried out by the Customer Relations Team.

## 2. Legal, regulatory and policy framework

The procedures will comply with and operate within the provisions of all relevant legislation, Council policies and procedures.

### 2.1 Statutory complaints about children's services

The Children Act 1989

<http://www.legislation.gov.uk/ukpga/1989/41/contents> as amended by the Adoption and Children Act 2002

<http://www.legislation.gov.uk/ukpga/2002/38/contents> 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

<http://www.legislation.gov.uk/uksi/2006/1738/part/1/made> set out how the procedure should work. These regulations should be read in conjunction with "Getting the best from complaints"

<https://www.gov.uk/government/publications/childrens-social-care-getting-the-best-from-complaints>.

The following functions of the Council may form the subject of a complaint:

- All functions under Part 3 of the Children Act 1989, including decisions by the Council regarding the provision of services for children in need and their families, the provision of accommodation for children in need, advice and assistance for children leaving care, and the use of accommodation for restricting liberty
- The Council's functions under s31(1) of the Children Act 1989 relating to care and supervision orders
- Functions under s33(3), (4), and (6) – (9) regarding the effect of care orders and the Council's actions and decisions when a care order is made
- Functions under s34(6) and (8) regarding parental contact with children in care
- Functions under s35(1) and (2) regarding the duties of supervisors under supervision orders
- Functions under s43(1) providing for the making of child assessment orders
- Functions under s44(1), (10), and (11) regarding emergency protection orders
- Provision of adoption support services as prescribed in regulation 3 of the Adoption Support Services Regulations 2005  
<http://www.legislation.gov.uk/ukxi/2005/691/regulation/21/made>  
including:
  - ⇒ financial support
  - ⇒ services to enable groups of adoptive children, to discuss matters relating to adoption
  - ⇒ assistance in relation to arrangements for contact
  - ⇒ services in relation to the therapeutic needs of an adoptive child
  - ⇒ assistance for the purpose of ensuring the continuance of the relationship between an adoptive child and his adoptive parent
  - ⇒ assistance where disruption of an adoptive placement has occurred or is in danger of occurring
- Functions relating to assessments and related decisions for adoption support services as prescribed in regulation 3 (parts 4 and 5 of the Adoption Support Services Regulations 2005)
- Functions relating to placing children for adoption, including parental responsibility and contact issues (sections 18 – 29 of the 2002 Act)
- Functions relating to 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 set out in Adoption Agencies Regulations 2005 in respect of:
  - ⇒ the Council considering adoption for a child (part 3)
  - ⇒ proposed placement of a child with prospective adopters (part 5)
  - ⇒ placement and reviews (part 6)
  - ⇒ case records (part 7)
  - ⇒ contact (part 8)

- Parental responsibility prior to adoption abroad (part 3 of Adoptions with a Foreign Element Regulations 2005  
<http://www.legislation.gov.uk/uksi/2005/392/contents/made>)
- Functions relating to the Special Guardianship Regulations 2005  
<http://www.legislation.gov.uk/uksi/2005/1109/contents/made> including:
  - ⇒ financial support for Special Guardians
  - ⇒ support groups for children for whom a Special Guardianship order is in force, or in respect of whom a person has given notice to the Council of their intention to make an application for a Special Guardianship order, or where a court is considering whether a Special Guardianship order should be made
  - ⇒ assistance in relation to contact between a child who is or may be the subject of a Special Guardianship order and a parent or relative of his or any other person with whom the child has a beneficial relationship
  - ⇒ therapeutic services for a child who is subject to a Special Guardianship order or may become subject to a Special Guardianship order
  - ⇒ assistance for the purpose of ensuring the continuation of relationships between a child who is or may become the subject of a Special Guardianship order and a Special Guardian or prospective Special Guardian

## 2.2 Statutory complaints about adult services

The Council has a duty to handle complaints under The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009

<http://www.legislation.gov.uk/uksi/2009/309/contents/made?view=plain>

and The Local Authority Social Services and National Health Service Complaints (England) (Amendment) Regulations 2009

<http://www.legislation.gov.uk/uksi/2009/309/contents/made?view=plain>

relating to its social services functions or any function carried out by the Council under arrangements made between it and an NHS body under Section 75 of the National Health Service Act 2006

<http://www.legislation.gov.uk/ukpga/2006/41/section/75>. This should be read in conjunction with “Listening, Responding, Improving: a guide to better customer care”

[http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/dh\\_095408..](http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/dh_095408..)

## 2.3 Statutory complaints about Public Health services

The Council has a duty to handle complaints under the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012

<http://www.legislation.gov.uk/uksi/2012/3094/regulation/7/made> relating to its public health responsibilities.

### 3. Definitions

A complaint is an expression of dissatisfaction about a council service (whether that service is provided directly by the council or by a contractor or partner) that requires a response.

A comment is a suggestion or observation about services provided.

A compliment is a positive remark about a service or an individual.

### 4. What may be complained about using this policy?

- 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 (action or lack of action)
- Quantity, frequency or charge of a service
- Attitude or behaviour of staff
- Application of eligibility and assessment criteria
- Assessment, care management and review

This list is not exhaustive.

### 5. Who can complain?

Any Bristol citizen or anyone who receives a service from the Council (including students and tourists), those entitled to request a Council service or anyone they have chosen to act on their behalf. This may include a relative, Councillor or MP. There are some additional criteria for people complaining about statutory social care services for children or adults and for public health services (see below).

#### 5.1 Complaints made on behalf of someone else

##### 5.1.1 Complaints made *on behalf of an adult*

Where a complaint is received from a representative acting on behalf of an adult with mental capacity, the Council will confirm that the citizen or service user is happy for this to happen and that the complaint submitted reflects his/her views where this is not apparent.

Where a complaint is received on behalf of a person who is unable to make the complaint themselves because of a lack of capacity within the meaning of the Mental Capacity Act 2005 <http://www.legislation.gov.uk/ukpga/2005/9/contents> or a child, the Customer Relations Team and/or relevant senior managers from the service will decide whether or not the representative is making a complaint in the citizen or service user's best interests. If it is



decided that the representative is not conducting the complaint in the best interests of the person on whose behalf s/he is making the complaint, the complaint will not be considered or further considered. The representative will be notified of this in writing, explaining that no further action will be taken with reasons for the decision.

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

Where a complaint is received from a representative acting on behalf of a child or young person, the Council will confirm where possible that the child or young person is happy for this to happen and that the complaint submitted reflects his/her views. This is subject to the child's age and understanding.

The Council 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 Council considers that the representative does not have sufficient interest, the representative will be notified in writing, explaining that no further action will be taken.

#### **5.1.3 Complaints *relating to a child***

Where complaints are received from adults relating to a child or young person but not made on the child's behalf, the Council has discretion over whether or not to accept the complaint for consideration where eligibility is not automatic. The Council will consider whether or not an individual has sufficient interest in the child's welfare to justify his/her own complaint being considered by the Council. In reaching a decision, where possible the Council may check with the child or young person that s/he is happy with the person making a complaint.

### **5.2 Anonymous complaints**

Anonymous complaints are difficult to deal with because their investigation is always dependent upon limited and questionable information. However, they will be recorded in the same way as other complaints and referred to relevant senior managers who will take appropriate action based on their judgement of the information received. No reply can be made.

### **5.3 Statutory complaints about children's social care services**

- A child or young person who is being looked after by the Council
- A child or young person who is not looked after by the Council but is a child in need
- A parent of his/hers
- A person who is not a parent but has parental responsibility for him/her
- A Council foster carer (including those caring for children placed through independent fostering agencies)
- A child or young person leaving care
- A child or young person in respect of whom a special guardianship order has been made
- A Special Guardian or parent of such a child

- A person who has applied for an assessment for special guardianship support services
- A child or young person who may be adopted, their parents and guardians
- A person wishing to adopt a child
- A person to whom arrangements for the provision of adoption services extend
- Adopted persons, their parents, natural parents and former guardians
- Such other person as the Council considers has a sufficient interest in the child's welfare to warrant his/her representations being considered by them. In reaching a decision as to whether the person has sufficient interest in the child's welfare the authority must take into account the views of the child if they consider it appropriate to do so, and must tell the child concerned of their decision if they consider it appropriate to do so.

#### **5.4 Statutory complaints about adult social care or public health services**

Anyone who is likely to want to make comments or complaints about the actions or failings of adult social care or public health services has access to this procedure. The Council may use its discretion to deal with a complaint not covered by this procedure. A complaint may be made by:

- A person who receives, or has received services, from adult social care or public health services
- A person who is affected or is likely to be affected, by the action, omission or decision of adult social care or public health services which is the subject of the complaint
- A representative of the above who:
  - ⇒ has died
  - ⇒ is a child
  - ⇒ is unable to make the complaint themselves due to physical or mental incapacity
  - ⇒ has requested the representative to act on their behalf

## **6. What cannot be complained about? (Exemptions)**

Every complaint will be considered on its individual merits and a decision will be made as to whether the complaints procedure should be implemented. Decisions to exclude complaints from the process are made by the Customer Relations Team in consultation with relevant senior managers and legal services where appropriate.

Complaints will not be considered, or considered further, if the complaint is not about the actions or decisions of the Council, or any organisation acting on its behalf or if the same complaint has been responded to through the complaints procedure or by the Local Government and Social Care Ombudsman, Housing Ombudsman or the Information Commissioner.

If the Customer Relations Team considers that a complaint is not appropriate to be dealt with under this procedure, the complainant will be informed of this in writing. The complainant will be given reasons and, where applicable, will be directed to the more appropriate means of addressing the issue they have raised.

### **6.1 Time limits**

Issues and events which took place more than twelve months before receipt of a complaint will not usually be responded to through the complaints procedure. This is because such complaints are often difficult to investigate fully or fairly. The likelihood of achieving a reliable outcome is significantly reduced because staff members have changed, memory fades, records may be lost or unreliable and procedure, policies and practice may have altered.

Possible grounds for accepting a complaint after one year include one or more of the following:

- Age or vulnerability of complainant
- The delay in complaining is beyond the control of the complainant, eg new evidence has become available
- There may still be a benefit to the complainant in proceeding and 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.

The Customer Relations Team, in consultation with senior managers and legal services where appropriate, will have discretion to decide exceptions to this rule. Where an exception is not agreed the complainant will be informed about the reasons for refusal, any evidence that has been considered when making the decision to refuse their request, and of their right to approach the relevant Ombudsman.

#### **6.1.1 Escalation between stages**

Complainants are encouraged to request escalation of their complaint within 20 working days of receiving a response. Requests outside this timeframe may still be considered at the discretion of the Customer Relations Team.

## **6.2 Illegal activity**

There will be occasions when a complaint involves the possibility of an offence having been committed, or where legal action is a possible outcome. In these circumstances, advice will be taken from legal services before proceeding. If a decision is taken that all or part of a complaint requires legal investigation and court action, the complaint will be suspended in relation to those investigations. The complainant will be informed that this decision has been taken.

## **6.3 Court proceedings**

The Council will not consider complaints if the complaint relates to issues which are the subject of proceedings in any court or tribunal or the complainant has stated that s/he, or a person on whose behalf s/he is acting, intend to take proceedings in any court or tribunal. People wishing to appeal against decisions taken by a Court should approach the Court.

### **6.3.1 Statutory complaints about children's services**

Dissatisfaction about a Council's management or handling of a child's case, even where related to a Court order, may be considered using this procedure in certain circumstances. For example, conduct of social work staff in certain Court procedures. The Customer Relations Team will identify whether any circumstances might be considered under this procedure.

## **6.4 Negligence claims**

Complaints received which only concern financial compensation for loss, damage or injury will be considered a claim for negligence and will be referred to the Council's Insurance Services team.

## **6.5 Right of appeal**

Some services are required by law to provide a mechanism to allow citizens to appeal against certain types of decisions. The Council also voluntarily operates appeal systems for certain decisions. If the Council receives a complaint about a decision where a right of appeal exists either in law or under a Council appeal mechanism, the complaint will be changed to an appeal and handled in accordance with the relevant appeal procedure.

Set out below is a list of the main areas where a right of appeal is available. The list is not exhaustive.

- Planning applications <http://www.bristol.gov.uk/page/planning-and-building-regulations/planning-appeals>
- Schools Admissions <http://www.bristol.gov.uk/page/children-and-young-people/school-admission-appeals>
- Homelessness appeals – details of how to request a review are provided on decision letters
- Housing Benefit appeals <https://www.bristol.gov.uk/benefits-financial-help/appeal-housing-benefit-decision>
- Council Tax bandings <http://www.bristol.gov.uk/page/council-tax/council-tax-charges-and-bands#jump-link-3>

- Penalty Charge Notice appeals  
<https://www.bristol.gov.uk/parking/appeal-a-parking-or-bus-lane-fine>

## **6.6 Complaints about Data**

Where a complaint relates a data protection concern or to a failure to abide by legislation relating to information requests (e.g. Freedom of information (FOI), Environmental Information Regulations (EIR) or Subject Access Request (SAR)) then it should be referred to the Council's Information Governance Team and not considered through this process. In some cases it may be appropriate for part or all of a complaint to be dealt with using these complaints procedures. If that is the case it will be agreed between the Information Governance and Customer Relations Teams.

## **6.7 Complaints against elected members or the elected Mayor**

Elected members and the elected Mayor are subject to a Code of Conduct under the Council's Constitution. A citizen can contact the Council's Monitoring Officer if they have a concern about the conduct of a Councillor <https://www.bristol.gov.uk/complaints-and-feedback/complain-about-the-mayor-or-a-councillor>

## **6.8 Policy decisions**

Council staff members are required to adhere to Council policies, which are ultimately the responsibility of the Elected Mayor and Councillors. The complaints procedure cannot be used to challenge policy. Comments regarding Council policies should therefore be addressed directly to elected representatives.

Staff members are required by Council committees to write reports with their recommendations and to present their reports verbally to Councillors in committee meetings. These recommendations are open to challenge by Councillors at meetings and through public statement/objections. Staff members, therefore, are not in control of any decisions taken by Councillors, which take into account their recommendations. For this reason, the actions and behaviours of staff involved in Council committee meetings will usually be outside of the scope of the complaints procedure.

## **6.9 Complaints about schools**

Complaints received which refer specifically to activity that takes place in a school are the responsibility of the school itself, which should have in place its own complaints procedure <http://www.bristol.gov.uk/page/children-and-young-people/school-complaints-and-comments>.

## **6.10 Complaints from professionals or external contractors**

Individuals, companies or organisations in a contractual or professional relationship with the Council should raise any concerns they may have with the relevant manager or contract manager within the Council. They will not be considered through this procedure or be bound by the timescales suggested in this procedure. Services are required to ensure that contractors / professionals are advised of their right to approach a relevant Ombudsman service if appropriate.

## **6.11 Complaints from staff**

Where a staff member wishes to complain about issues and decisions that affect them directly and relate to employment or working practice within the Council, they must take up these issues through line management structures and employment procedures such as the Grievance Policy: [https://www.bristol.gov.uk/documents/20182/33892/GrievancePolicyEmployeeGuide\\_0.pdf](https://www.bristol.gov.uk/documents/20182/33892/GrievancePolicyEmployeeGuide_0.pdf)

## **6.12 Unreasonable complainant behaviour**

The Council is committed to dealing with all complaints fairly and impartially and to making the complaints procedures as accessible as possible. However, because of the nature or frequency of their contact with the Council, a few complainants behave unreasonably and hinder the consideration of their own, or others' complaints.

The Council will not tolerate deceitful, abusive, offensive, threatening or other forms of unacceptable behaviour from complainants. When it occurs, proportionate action will be taken to protect the wellbeing of Council staff and the integrity of Council processes.

Council staff members are expected to do their best to ensure comprehensive and speedy responses to complaints. They cannot do so if someone tries to dominate their attention with frequent, lengthy contacts and repetitive information. When necessary, the Council will take action to restrict access to our service when unreasonable behaviour of this nature persists.

### **6.12.1 Warnings**

In most instances when we consider someone's behaviour is unreasonable we will explain why and ask them to change it. We will also warn them that, if the behaviour continues, we may take action to restrict their contact with us.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of Council staff we may report the matter to the police or consider taking legal action. In such cases, we may not give the complainant prior warning.

### **6.12.2 Restricting access to the complaints procedure**

The Customer Relations Team will decide whether the circumstances justify any restriction of access. The reason for the decision will be recorded and explained to the person concerned, as well as how long any restriction will apply for before it is reconsidered.

### **6.12.3 Limitations**

Any restriction placed on an individual will usually extend for a time period not greater than twelve months and be followed by a review, the outcome of which will either remove the restriction or re-impose it for a further period followed by review.

#### **6.12.4 Terminating access to the complaints procedure**

If a complainant continues to behave unreasonably, or overrides the restrictions placed on access to our service, we may decide to terminate contact with them and end any investigation into their complaint.

Further submissions on the same matter will be read and placed on file, but no other action will be taken.

#### **6.12.5 New complaints**

New complaints from people whose behaviour has previously been considered unreasonable will be treated on their merits. Restrictions imposed in respect of an earlier complaint will not automatically apply to a new matter.

### **6.13 Statutory complaints about adult services**

#### **6.13.1 Complaints from self-funded service users**

People who independently purchase their own community care services, including residential care, cannot complain about the provision of that care under this procedure. It is a requirement of the Care Standards Act 2000

<http://www.legislation.gov.uk/ukpga/2000/14/contents> that providers have a complaints procedure in place and complainants may escalate concerns to the Local Government and Social Care Ombudsman <http://www.lgo.org.uk/>.

#### **6.13.2 Mental Health**

The Care Quality Commission <http://www.cqc.org.uk/> is able to investigate complaints made by a patient about matters relating to their detention, treatment, care and aftercare. The Commission may refer relevant complaints to the Council to be dealt with under this procedure.

A decision made by an Approved Mental Health professional regarding the making of an application under the Mental Health Act 1983 <http://www.legislation.gov.uk/ukpga/1983/20/contents> is an action taken independently of the Council and therefore falls outside of this procedure. However, complaints made about the process of the assessment or the Approved Mental Health Professional's actions during the process are covered by this procedure.

All other complaints made by people with mental health problems, or their representatives, may be appropriately dealt with under this procedure provided they are concerned with services provided by the Council.

## 7. Advocacy

The Council has made arrangements for independent advocacy services to be available to complainants in receipt of social care services who meet certain eligibility criteria.

For those in receipt of social care services, advocates support all children and young people, some adults complaining on their behalf and some vulnerable adults to express their concerns and/or complaints about social care services. This may include helping them to write their complaint and accompanying them to meetings with managers dealing with their complaints. They will also help them to consider responses and decide whether they are satisfied or wish to pursue matters further.

The specialist knowledge and expertise offered by these advocacy services may be beneficial to some complainants. However, complainants may choose to be supported by anyone, whether a family member or friend, or an advocate from another organisation, subject to data protection considerations. [Details](#) of the current providers of advocacy services will be available on the Complaints procedures webpage: <https://www.bristol.gov.uk/complaints-and-feedback/complaints-procedures> .

## 8. Complaints procedure relationship to other Council procedures

In some cases there are other procedures that take precedence over complaints procedures, for example safeguarding children or vulnerable adults, disciplinary procedures. Where joint action is necessary, complaints will be separated out from other procedures where appropriate.

### 8.1 Complaints about access to information

Where a complaint is about the following issues:

- a breach of the Data Protection Act 2018 / UK GDPR
- a decision to withhold information
- factual information they consider to be incorrect
- objection to the processing of their data or asserting the right of erasure
- failure to provide requested information
- delay in providing requested information

It will be dealt with in accordance with the DPA 2018 and UK GDPR and using the Council's Data Protection Policy [Data+protection+policy \(bristol.gov.uk\)](#) . The complainant may ultimately approach the Information Commissioner's Office (ICO) if they remain dissatisfied with the handling of their information rights.

### The Freedom of Information Act

The Freedom of Information Act

<http://www.legislation.gov.uk/ukpga/2000/36/contents> regulates the disclosure of non-personal information. If dissatisfied with an FOI or EIR response, an enquirer should firstly approach the Council's Data Protection



Officer to request an Internal Review. After this, if they remain dissatisfied, they can approach the Information Commissioner [www.ico.org](http://www.ico.org) to appeal against a decision or complain about an unsatisfactory response under these various legislations.

## **8.2 Disciplinary or Police investigations**

When a complaint is received, or at any point during a complaint investigation, if it becomes apparent that disciplinary or Police action may be required, a relevant senior manager from the service will decide whether a disciplinary investigation should take place:

[https://www.bristol.gov.uk/documents/20182/33892/Disciplinary\\_Employees\\_Guide.pdf](https://www.bristol.gov.uk/documents/20182/33892/Disciplinary_Employees_Guide.pdf). If it is decided to carry out such an investigation, the complaints procedure may be suspended while the investigation takes place.

Disciplinary or Police investigations may run concurrently with the complaints procedure. This may apply if parts of the complaint are unrelated to the issues requiring disciplinary action. The Council will decide on an individual basis to either not begin, or to discontinue, a complaint investigation when to proceed with it would compromise a concurrent investigation under another statutory or internal procedure. The complaint investigation will be started or resumed once the concurrent investigation is discontinued or completed.

All reasonable steps will be taken to ensure the complainant is kept informed in the most appropriate way about the progress of both investigations, and that the response is as comprehensive as possible. It should be noted that specific action taken against individual employees is a confidential matter and will not be shared with complainants.

## **8.3 Whistleblowing**

Members of staff wishing to raise matters of poor administrative practice or service delivery or other matters that are being openly condoned by senior managers, should follow the guidance in the Council's Whistleblowing Policy:

[https://www.bristol.gov.uk/documents/20182/33892/WhistleblowingPolicy\\_1.pdf](https://www.bristol.gov.uk/documents/20182/33892/WhistleblowingPolicy_1.pdf).

## **8.4 Safeguarding children and vulnerable adults**

Where consideration of a complaint leads to concerns about the welfare of children or vulnerable adults, these will be referred immediately to the relevant Council safeguarding team. The handling of any associated complaint will be suspended if necessary.

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 and professionals involved with the child and family. 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 procedure.

## **8.5 Complaints relating to more than one Council service**

There are some circumstances where a complaint is about the work of more than one Council department, such as children's services, housing and adult services.

Such complaints will usually receive a single response. Responses should use the most appropriate procedure. If any part of a complaint relates to matters covered by statutory complaints procedures, these will usually be used to consider the entire complaint.

The relevant officers dealing with the complaint will agree who will take the lead and responsibility for communicating with the complainant.

## **8.6 Freezing decisions**

In some circumstances a complainant may wish to challenge or change a decision about service provision. The relevant senior manager, in consultation with the Customer Relations Team, will decide whether the decision complained about will be suspended or postponed while the complaint is being dealt with, taking into consideration all the facts of the case, including risk assessment. Decisions will be made on a case by case basis, but generally there will be a presumption in favour of freezing, unless there is good reason against it. The complainant will be informed.

# **9. Complaints involving other organisations**

## **9.1 Joint complaints**

Complaints may relate to the work of more than one organisation. Examples include NHS, other local authorities, schools, child care organisations, Probation services, Housing Associations, voluntary or private sector organisations.

Wherever possible, the Council will work with other agencies to ensure that complainants receive joint timely responses. The lead body will ensure that complainants are kept informed. Each body will contribute to a single joint reply. However, each agency will retain its individual duty of care for service users.

## **9.2 Commissioned services**

Some Council services are delivered by external organisations, called providers. The Council will usually expect a complaint about a provider to be considered by them using their own complaints procedure. For some services, providers are required to have a statutory procedure (eg care homes). If a complainant is dissatisfied with the response they receive from the provider, they can ask the Council to answer the complaint.

Where complaints are received which comprise elements relating to both Council functions and a provider's services, the Council will cooperate with

the provider to ensure that the complainant receives a coordinated response dealing with all aspects of the complaint.

### **9.3 Complaints involving the NHS**

Sometimes complaints relating to an NHS organisation are received by the Council. With the consent of the complainant, such complaints will be referred to the relevant NHS organisation by the Council. If the complainant does not consent to this, they will be advised how to complain to the NHS.

Some complaints relate to both the Council and the NHS. The Council will co-operate with an NHS organisation involved with a complaint, with the aim of the complainant receiving a co-ordinated response to his/her complaint.

## **10. Recording and monitoring**

A recording system exists to:

- monitor compliance with procedures
- monitor extent to which concerns are being taken seriously
- inform future service planning
- identify problem areas so that remedial action can be taken
- monitor whether complainants are representative of the population

Records kept will include the following:

- contact and diversity information about complainants and associated service users
- each comment, concern, compliment or complaint received and associated documents
- investigation and panel reports where appropriate
- complaint responses
- compliance with timescales
- outcomes of complaints at all stages
- agreed actions
- resulting service improvements

For complaints about adult and children's social care, a record of complaints, investigation reports, panel reports and letters of response will also be kept on service users' files unless there are good reasons not to do so.

## **11. Reporting on complaint outcomes, learning and service improvement**

Management information reports are available for Council managers so that they can monitor the performance of their services in relation to complaints.

Examples of reports include: numbers of complaints, compliance with procedures, complaint outcomes and resulting service improvements.

An annual report of statutory social care complaints is published and is available on the Council's website. The report contains information about:

Numbers of comments, concerns, compliments and complaints received

- Number responded to at each stage and those considered by the Ombudsman
- Who made the complaints
- Types of complaint made
- Outcomes of complaints
- Details about advocacy services provided
- Compliance with timescales (regular and extended)
- Learning and service improvements
- Statistical data about the diversity of complainants
- Review of the effectiveness of the representations and complaints procedure

## 12. Receiving complaints, compliments, comments and suggestions

### 12.1 Receipt of Complaints

The Council's preferred method for receiving complaints is via the web form on the Bristol City Council website. This will normally ensure that the complaint is adequately captured and an automatic acknowledgement will be sent to the complainant. It would be considered reasonable for officers to direct complainants to this facility in the first instance but must not do so at the risk of putting off the complainant or otherwise missing the complaint.

#### 12.1.1 Verbal receipt

There is no designated face to face location or telephone line for the submission of complaints. Where a complainant verbally advises an officer (either in person or by telephone) that they wish to make a complaint but are unable to use the web form then that officer should capture the complaint on the web form on the complainant's behalf.

#### 12.1.2 Receipt by Mail

Where a complaint is received by a service either by post or by email, they should ensure that this is passed to the Customer Relations Team without delay so that the complaint may be recorded on the corporate complaints system and allocated appropriately.

#### 12.1.3 Social Media

Where a complainant makes contact via a social media platform, they should be directed to an alternative method for making the complaint, either by direct message function or via public response. The Council will not provide complainant specific responses via social media sites.

### 12.2 Receipt of compliments, comments and suggestions

Compliments, comments and suggestions will be recorded. They will be brought to the attention of relevant managers and staff for action if necessary and acknowledged where appropriate

### 12.3 Service Requests

Where a complaint is submitted that the Council considers fits the criteria of a service request (generally an issue that requires action that has not previously been reported to a service) then the complaint record will be changed to reflect this and closed. The requester will be informed of the decision and the case passed to the relevant service for action through their normal processes.

## 13. Non-statutory complaints

### 13.1 Stage 1

When a complaint is accepted for consideration, it will be acknowledged by the service within 3 working days, advising the complainant that they will receive a response within 15 working days.

The draft response will be compiled by a member of staff within the service who has the relevant knowledge and authority, preferably a service manager, team manager or team leader.

All the issues raised in the complaint will be addressed and, if necessary, further information will be gathered, possibly by telephoning or meeting the complainant. In some cases it may be necessary to conduct a detailed investigation.

The service may resolve the complaint by phone or in person, which will be followed up in writing (email or letter) by a named respondent.

If there is going to be a delay in responding, the complainant will be informed of the reasons for this along with a revised date for a response

The written response will generally:

- outline the investigation methods
- make findings on each aspect of the complaint, eg upheld, not upheld, partially upheld or no conclusion
- outline any remedial action
- inform the complainant how to escalate their complaint.
- include the name and job title of the Officer providing the response

The response may be reviewed by a senior manager before being sent to the complainant.

### 13.2 Stage 2

If a complainant is dissatisfied with the response they receive at Stage 1, they can request that it is escalated to Stage 2. Requests to escalate should be made within 20 working days of the Stage 1 response being issued, in writing where possible, and should clearly state the reasons the complainant is dissatisfied with the Stage 1 response and the desired outcome for the escalation.

All escalation requests will be reviewed by a member of the Customer Relations Team and a decision will be made to either:

- Investigate the Complaint at Stage 2
- Refer the case back to the service for further consideration
- Support the Stage 1 Response without further detailed investigation

Once this has been decided, within 3 working days, the Customer Relations Team will write to the complainant with an explanation of how the escalation request is being handled.

If the Stage 2 escalation request is based on a failure of the Stage 1 response to address part or all of the complaint, or if new issues are raised, the case may be passed back to the service for a revised stage 1 response. The service should respond as soon as possible, and within a maximum of 15 working days of the escalation request being received.

If, in the opinion of the reviewing officer, the Council's findings are unlikely to change, the complaint will not be investigated at Stage 2 but the complainant will be informed of the Council's decision and how to escalate their complaint to the relevant Ombudsman service.

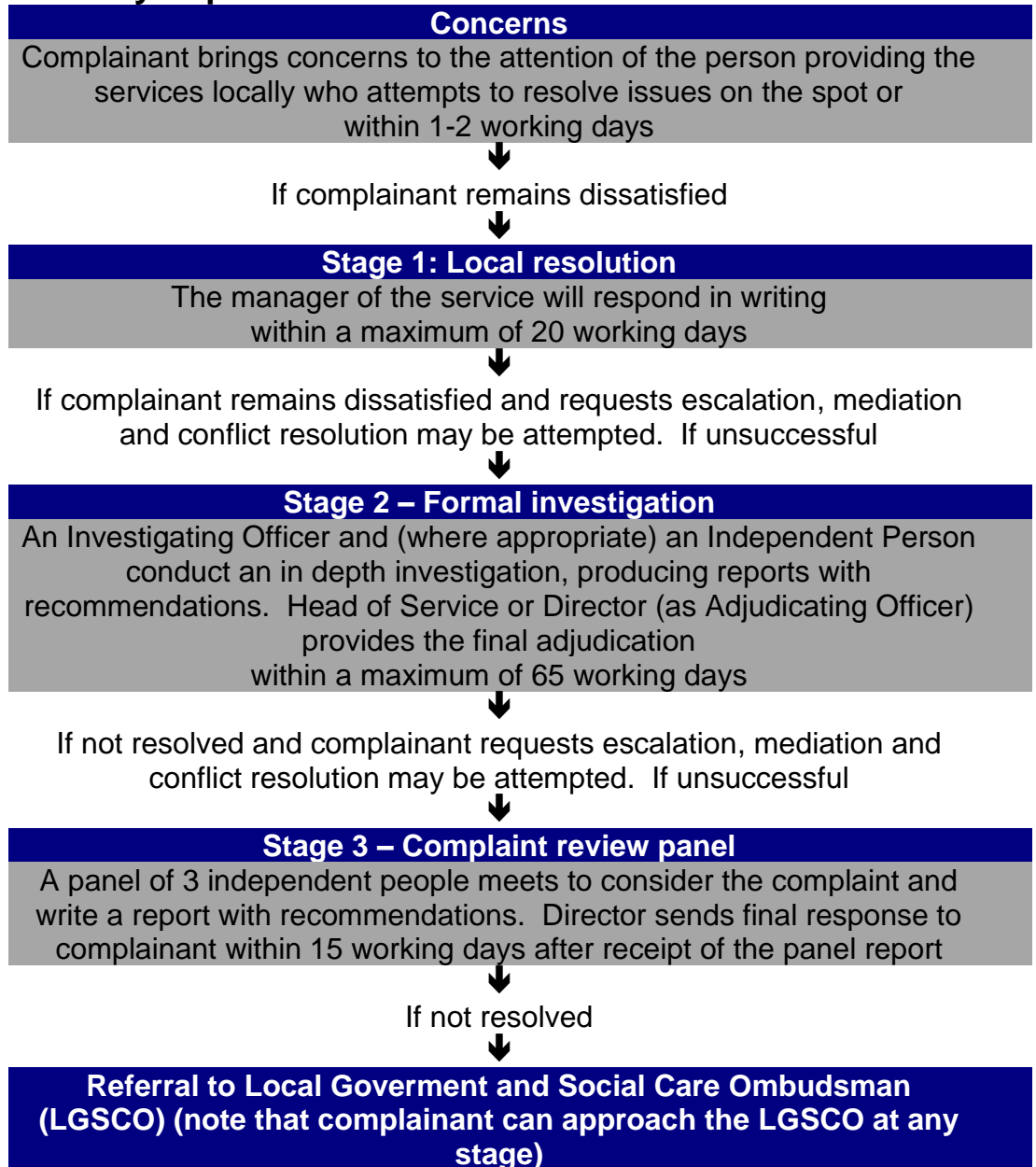
Confirmation of the decision will be sent to the complainant at the time the decision is made.

If the complaint is accepted for investigation at Stage 2, Customer Relations Team staff will liaise with the relevant Service Manager or Director, gathering information and sharing their findings. Once a conclusion has been agreed, a response to the complaint will be produced. The response letter will generally:

- outline the investigation methods
- make findings on each aspect of the complaint, eg upheld, not upheld, partially upheld or no conclusion
- outline any remedial action
- inform the complainant how to escalate their complaint

# 14. Statutory complaints about children’s social care

## 14.1 Summary of procedure



### Notes

- Timescales are referred to in "working days" which are defined by the regulations as any day except Saturday, Sunday, Christmas Day, Good Friday or a day which is specified or announced as a Bank holiday in England and Wales under the Banking and Financial Dealing Act 1971.
- Written response can include secure emails.

## 14.2 Receiving a complaint or concern

When a concern is received by any staff member, the first consideration is whether or not the issue can be dealt with on the spot or within an



hour or two through timely intervention. If it can, then this is the best option.

If not, staff should notify the Customer Relations Team as soon as possible. All contacts received by the Customer Relations Team, whether from staff members or directly, will be recorded for monitoring purposes.

The Customer Relations Team will assess whether the person raising concerns and the issues being complained about meet the criteria for consideration using this procedure. If not, appropriate action will be taken using this procedure, in liaison with relevant managers if appropriate.

If the criteria are met, the Customer Relations Team will acknowledge receipt in writing within 2 working days. If the Customer Relations Team considers that it may be possible to resolve the issue quite quickly (eg in the case of a minor concern or a perceived misunderstanding), it will be recorded as a concern. The Customer Relations Team will liaise closely with appropriate managers to ensure that contact is made with the complainant within 1-2 working days to resolve the issue(s).

If concerns are made orally, they will be confirmed in writing, outlining areas of concern and desired outcomes. Similarly, if complainants send insufficient information for a complaint to be investigated, they will be contacted to supply additional information, which will be confirmed in writing.

Staff members will check whether there are any consent issues and take appropriate action to establish necessary permissions.

Children or young people raising concerns are entitled to the support of an advocate. The Council has a contract with an advocacy organisation. It is therefore important to support the child or young person to take up advocacy, which may include contacting the organisation on their behalf. The advocate may help the young person to resolve the issue outside of the complaints procedure, as is their role. Alternatively, they can support the complainant to use the complaints procedure.

Where appropriate, and with the complainant's agreement, a manager may make arrangements for conciliation, mediation or other services to help resolve the problem, in consultation with the Customer Relations Team.

If it is not possible to resolve the issue quickly outside of the complaints procedure, it will usually be considered at Stage 1 of the procedure.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

### **14.2.1 Stage 1 – local resolution**

There is a 10 working day timescale for dealing with uncomplicated complaints at Stage 1 which can be extended to 20 working days for complex issues. The start date is the date the complaint was accepted by the Council for consideration at Stage 1 or from when an advocate is appointed if requested by the complainant. The start date may be a date after those defined above at the request of the complainant, which the complainant agrees with the Council.

The Customer Relations Team will acknowledge acceptance of the complaint within 2 working days, providing information about who will deal with the complaint, advocacy support and timescales. The details of the complaint will then be sent to the relevant Service Manager who will appoint a manager to respond to the complaint (the respondent). The response will be written by a member of staff within the service who has the relevant knowledge and authority. Ordinarily, this will be the manager responsible for the service being complained about. It is vital that the respondent is sufficiently senior to investigate complaints of a serious nature.

The respondent will look into the issues and provide the complainant (and advocate where appointed) with a written response to their complaint to include:

- Explanation of how complaint was investigated
- Conclusions reached
- Actions to be taken as a result of complaint
- Information about escalation

The response will inform the complainant that if they are dissatisfied about the outcome to their complaint and they wish to pursue it at Stage 2, they should inform the Council within 20 working days from the date of the response. The complainant will be advised to say what it is they reject about the outcome of the Stage 1, and how they would like to see the issue being resolved.

The respondent must allow time for their draft response to be checked by their manager before it is sent to the complainant.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

### **14.2.2 Stage 2 – formal investigation**

Where the complaint has not been upheld or if a complainant does not receive a response within 20 working days, the complainant or their advocate may request, orally or in writing, that the complaint is formally investigated at Stage 2.

If the Council or the complainant believes it would be appropriate not to consider a complaint at Stage 1 this can be discussed. Where both parties agree, the complaint can move directly to Stage 2. Where one party disagrees with local resolution, the Customer Relations Team will make the final decision on proceeding directly to Stage 2.

A request for escalation to Stage 2 will be acknowledged within 2 working days.

Where appropriate, and with the complainant's agreement, the manager may make arrangements for conciliation, mediation or other services to help resolve the problem, in consultation with the Customer Relations Team.

The Customer Relations Team will check that the complaint is eligible for consideration at Stage 2. This may involve discussions with the advocate, if there is one, a senior manager, insurance services, legal services and consulting regulations and guidance.

The Customer Relations Team will then write to the complainant, confirming acceptance that the complaint will be formally investigated and enclosing information about the formal investigation.

The Customer Relations Team will ensure the appointment of an Investigating Officer (IO) and Independent Person (IP), where relevant, as soon as possible. The IO will lead the investigation and the IP is appointed in order to ensure that the process of investigation is open, transparent and fair. The IP will not be an employee of the Council, nor a spouse of an employee or member of the authority. The IP will work alongside the Investigating Officer to provide an independent and objective view. This includes seeing the same relevant files and documents as the respondent and participating in all interviews and discussions relevant to the investigation. These people are referred to as the Investigation Team. The Customer Relations Team will write to the complainant confirming the names of the IO and IP and will provide the Investigation Team with all complaints correspondence so far.

Ordinarily operational managers without line management responsibility for the service complained about will investigate Stage 2 complaints. From time to time, an external Investigating Officer will be appointed, eg if it is decided that operational staff do not have capacity to deal with a Stage 2 investigation or the complaint is particularly complex or contentious.

The Investigation Team will make contact with the complainant to discuss the complaints in detail and desired outcomes. They will also discuss the timescale for the investigation. Following this, the IO will write to the complainant to confirm the areas of complaint to be investigated, the outcomes sought, investigation methods and timescale (called a Statement of Complaint).

Once the Statement of Complaint has been agreed, the investigation can begin. The Customer Relations Team will write to the complainant confirming timescales. This will be a maximum of 65 working days from the date the signed statement of complaint was agreed.

The Customer Relations Team will ensure that the appropriate Service Manager for the service complained about is informed about the complaint. The Service Manager will ensure that:

- the relevant manager and staff concerned are informed about the complaint, unless notification at that time would prejudice the investigation of the complaint
- a member of staff is identified to support the Investigation Team.
- staff members who are interviewed by the Investigation Team are informed of their right to be accompanied by someone of their choice to support them, but that person may not participate in the interview

The Investigation Team will read files, identify relevant policies, procedures and legislation and arrange to interview relevant staff. They will check notes of their meetings for accuracy with all witnesses, including staff and managers. They will have full access to relevant records and staff.

The IO will then draft a report and discuss the draft report with the IP. The Customer Relations Team provides a quality assurance and administrative support role to the IO to check that they have fully considered all the issues raised. The IP will read the IO's report and write their own document about the investigation, commenting on the findings and conclusions and considering the extent to which the investigation was conducted impartially, comprehensively and effectively.

Once finalised, both reports are sent to a Head of Service or Director who acts as an Adjudicating Officer (AO) and will consider the reports, findings and recommendations. The AO will write to the complainant (enclosing copies of the reports) setting out their final decision on the complaints, what actions the Council will take as a result of the complaint, the timescale for implementation, and how to request escalation of their complaint. If sent by post, a signed for method must be used.

A copy of the adjudication and reports is sent to relevant managers either responsible for the service being complained about or because there are actions that they are required to implement.

The Customer Relations Team will monitor progress of implementation of actions and ensure any service improvements are recorded.

Whilst a complaint is being investigated, managers of services must continue to attempt to resolve the complaint. Discussion and arbitration may resolve the situation at any time, when the complaint can be withdrawn. If it is possible to achieve this, the complaint will be closed, unless it is identified that there has been undue pressure to withdraw the complaint, and that particular issues should be followed up.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

#### **14.2.3 Stage 3 – Complaint Review Panel**

A complainant may request further consideration of his/her complaint if Stage 2 of the complaints procedure is completed and s/he remains dissatisfied. The complainant must make the request to the Customer Relations Team in writing within 20 working days of receipt of the Stage 2 response. They should state what it is they reject about the findings of the Stage 2 investigation, and what they wish to achieve by proceeding to Stage 3. The Customer Relations Team will acknowledge a Stage 3 request in writing within 2 working days.

The Customer Relations Team will check that the complaint is eligible for consideration at stage 3. This may involve discussions with the advocate, if there is one, a senior manager, insurance services, legal services and consulting regulations and guidance.

The Customer Relations Team will consult the Head of Service or Director to consider whether there may be other ways to resolve the complaint, called Alternative Dispute Resolution (ADR). This will include offering to meet with the complainant to try and resolve the issues. If necessary this would include an explanation of the Stage 3 process. Alternatively, an appropriate manager may be nominated to negotiate a resolution or a voluntary sector mediation organisation may be considered. If agreed, the Customer Relations Team will write to the complainant acknowledging receipt of their complaint and offering/explaining ADR, making it clear that they can still go to panel if ADR is unsuccessful.

The Customer Relations Team will also consider whether the complaint should be referred directly to the Local Government and Social Care Ombudsman (LGSCO), otherwise known as Early Referral to the Ombudsman (ERO). To consider this, the complaint must have been upheld at Stage 2. Examples could be where the complainant doesn't consider there has been a sufficient apology or did not receive sufficient financial recompense, etc. ERO requires the consent of the complainant, Head of Service or Director. If agreed, the Customer Relations Team will write to the complainant acknowledging receipt of their complaint and offering/explaining ERO.

If it is decided to proceed with a review panel, the Customer Relations Team will acknowledge this in writing within 2 working days and provide information about the stage 3 review panel.

The Customer Relations Team will request that the Democratic Services team organises a panel, providing a list of potential panel members from the register of people recruited through the South West Regional Complaints Managers' Group. The panel must take place within 30 working days, consisting of three people, all independent of the Council. Panel members cannot be an officer of the Council, or a spouse or civil partner of an officer of the Council. One of the panel members will be assigned the role of Chair. Other attendees will include the complainant (and their advocate where appropriate), the IO, the IP, the AO (or delegated manager), a Customer Relations Team member and the Clerk to the Panel from Democratic Services.

The Customer Relations Team will prepare a covering report and appendices of the complaint documents which will be sent to all parties by the Democratic Services team no later than 10 working days before the panel date.

The purpose of the panel is 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/her clearly defined complaints and desired outcomes;
- reach findings on each of the complaints being reviewed;
- make recommendations that provide practical remedies and creative solutions;
- support local solutions where the opportunity for resolution between the complainant and Council exists;
- identify any consequent injustice to the complainant where complaints are upheld and recommend appropriate redress;

- recommend any service improvements for action by the Council.

The review panel will not re-investigate the complaint, nor consider any substantively new complaints that have not been considered at Stage 2. The panel will apply the civil standard of proof, which is "balance of probability" and not the criminal standard of "beyond all reasonable doubt".

Within 5 working days, the panel will provide a written report containing a brief summary of the representations and its recommendations for resolution of the issues. The Democratic Services team will circulate this to all panel attendees.

Within 15 working days of receiving the panel's report, the Director will write to the complainant providing the final response to the complaint, responding to the panel's report and detailing the Council's findings and any actions it will take as a result of the outcome of the complaint. The letter will also advise the complainant that they may contact the LGSCO if they are dissatisfied with the response they have received. If sent by post, a signed for method must be used.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

## **15. Statutory complaints about adult social care services**

### **15.1 Receiving a complaint or concern**

When a concern is received by any staff member, the first consideration is whether or not the issue can be dealt with on the spot or within an hour or two through timely intervention. If it can, then this is the best option.

If not, staff will notify the Customer Relations Team as soon as possible. All contacts received by the Customer Relations Team, whether from staff members or directly, will be recorded for monitoring purposes.

The Customer Relations Team will assess whether the person raising concerns and the issues being complained about meet the criteria for consideration using this procedure. If not, appropriate action will be taken using this procedure, in liaison with relevant managers if appropriate. See below for complaints about regulated services.

If the criteria are met and the complaint is about the actions of the Council, the Customer Relations Team will acknowledge receipt in writing within 2 working days. If the Customer Relations Team considers that it may be possible to resolve the issue very quickly (eg in the case of a minor concern or a perceived misunderstanding), it will be recorded as a concern. The Customer Relations Team will liaise closely with appropriate managers to ensure that contact is made with the complainant within 1 working day to resolve the issue(s).

If concerns are made orally, they will be confirmed in writing, outlining areas of concern and desired outcomes. Similarly, if complainants send insufficient information for a complaint to be investigated, they will be contacted to supply additional information, which will be confirmed in writing.

Staff members will check whether there are any consent issues and take appropriate action to establish necessary permissions.

If it is not possible to resolve the issue quickly outside of the complaints procedure, a response will be required in accordance with the complaints procedure.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

### **15.2 Dealing with a complaint**

Once it has been agreed that a complaint will require a response from the Council in accordance with the complaints procedure, within 3 working days of the start date, the Customer Relations Team will:



- a) send an acknowledgement to the complainant in writing which will include information about the complaints procedure and outline next steps.
- b) complete a risk assessment of the seriousness and likelihood of recurrence of the complaint
- c) allocate the complaint to the member of staff within the service who has the relevant knowledge and authority, who will respond to the complaint (respondent). Ordinarily, this will be the manager responsible for the service being complained about. It is vital that the respondent is sufficiently senior to investigate complaints of a serious nature.

Within 4 working days of the start date, the respondent will attempt to contact the complainant on the telephone or in writing to offer to discuss their complaint. If they are unsuccessful on their first attempt, they will make several attempts and will write to the complainant if unable to make telephone contact. If the complaint is about a relatively minor issue, a 15 working day timescale is standard and will be agreed during a telephone call. If the complaint is complicated or the complainant wants to meet to discuss their concerns, the respondent may agree a different timescale up to a maximum of 6 months.

Within 2 working days of a telephone conversation or meeting with the complainant, the respondent will complete a Complaint Investigation Plan (CIP) to be sent to the complainant outlining:

- Complaints to be investigated
- Complainant's desired outcomes
- How the complaint will be handled (methodology), eg people to be interviewed, files to be read, policies and legislation to be examined
- When complainant should expect to receive a written response

During the investigation the complainant will be kept informed by the respondent about progress as far as reasonably practicable and will be notified of any delays, with reasons.

Within 15 working days (or negotiated timescale), the respondent will send a written response to the complainant to include:

- Explanation of how complaint was investigated
- Conclusions reached
- Actions to be taken as a result of complaint
- Information about escalation

The respondent must allow time for their draft response to be checked by their manager before it is sent to the complainant.

It may be appropriate, in exceptional circumstances, to appoint an external Investigating Officer (IO), in consultation with relevant senior managers, eg to ensure an additional level of independence or where a complaint is particularly complex. An Independent Person (IP) may be appointed, where

necessary, to shadow the investigation. This is an option where there are significant concerns about the vulnerability of the complainant. The IP will not be an employee of the Council, nor a spouse of an employee or member of the authority.

If an IO is appointed, they will produce a report for consideration by a Head of Service or Director who will send the final response to the complainant, enclosing the IO report.

If a response is not sent within 6 months of the start date, the respondent or Head of Service will provide the complainant with an explanation for the delay, and provide a written response as soon as reasonably practicable.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

### **Independent Person**

In the unusual event that an IP is appointed, she or he will work alongside the respondent to provide an independent and objective view. This includes seeing the same relevant files and documents as the respondent and participating in all interviews and discussions relevant to the investigation. The IP is expected to read the respondent's reply to the complainant and write their own document about the investigation, considering the extent to which the investigation was conducted impartially, comprehensively and effectively. The IP should also consider whether those concerned have been able to express their views fully and without duress.

## **15.3 Complaints about service providers**

If a complaint about a service provider is received, the Customer Relations Team will check whether the service user is receiving a service commissioned by the Council as a result of an assessment that they are in need of a service to be funded by the Council. If this is not the case and the service user is self-funding, the Customer Relations Team will advise the complainant to contact the provider for consideration of their complaint, and that they can escalate their complaint to the Local Government and Social Care Ombudsman once they have exhausted the provider's procedure.

If the complainant is not self-funding, the Customer Relations Team will ask the complainant whether s/he wishes the complaint to be referred to the provider. If so, the Customer Relations Team will send it to the provider as soon as possible. The provider must deal with the complaint under their procedure.

If the complainant is dissatisfied with the provider's response to his or her complaint, s/he may escalate his or her concerns to the Council for consideration under this procedure.

If the complainant does not wish the complaint to be referred to the relevant independent provider, the complaint will be allocated to the relevant manager responsible for commissioning the service for a response

according to this procedure. This will involve examining the provider's records and interviewing staff as appropriate.

An individual may make two separate complaints, one to the Council and one to the provider. Alternatively, a complainant can make a single complaint to either the provider or the Council, with elements relating to each. In this case, the Customer Relations Team will liaise with the complainant and cooperate with the provider to provide a single response, wherever possible, keeping the complainant informed.

#### **15.4 Reviewing a complaint**

If the complainant is not satisfied with the response they receive and requests a review, the Customer Relations Team will liaise with relevant senior managers to decide whether this can be agreed. If not, the complainant will be reminded of their right to contact the Local Government and Social Care Ombudsman.

If a review is agreed, an appropriate senior manager will decide what kind of review is required. It may be decided that a formal investigation is required, perhaps with the appointment of an external investigator. Alternatively, a service manager may write the response which will be sent to the complainant by the relevant Head of Service or Director. An appropriate timescale will be set.

Once this has been agreed within 3 working days, the Customer Relations Team will:

- a. send a written acknowledgement to the complainant
- b. allocate the complaint to the relevant senior manager for a response or arrange an external investigation.

Unless agreed otherwise, the final response will be sent within 15 working days, providing information about the Local Government and Social Care Ombudsman.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

## **16. Statutory complaints about public health services**

### **16.1 Receiving a complaint or concern**

When a concern is received by any staff member, the first consideration is whether or not the issue can be dealt with on the spot or within an hour or two through timely intervention. If it can, then this is the best option.

If not, staff will notify the Customer Relations Team as soon as possible. All contacts received by the Customer Relations Team, whether from staff members or directly, will be recorded for monitoring purposes.

The Customer Relations Team will assess whether the person raising concerns and the issues being complained about meet the criteria for consideration using this procedure. If not, appropriate action will be taken using this procedure, in liaison with relevant managers if appropriate. See below for complaints about commissioned services.

If the criteria are met and the complaint is about the actions of the Council, the Customer Relations Team will acknowledge receipt in writing within 2 working days. If the Customer Relations Team considers that it may be possible to resolve the issue very quickly (eg in the case of a minor concern or a perceived misunderstanding), it will be recorded as a concern. The Customer Relations Team will liaise closely with appropriate managers to ensure that contact is made with the complainant within 1 working day to resolve the issue(s).

If concerns are made orally, they will be confirmed in writing, outlining areas of concern and desired outcomes. Similarly, if complainants send insufficient information for a complaint to be investigated, they will be contacted to supply additional information, which will be confirmed in writing.

Staff members will check whether there are any consent issues and take appropriate action to establish necessary permissions.

If it is not possible to resolve the issue quickly outside of the complaints procedure, a response will be required in accordance with the complaints procedure.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

### **16.2 Dealing with a complaint**

Once it has been agreed that a complaint will require a response from the Council in accordance with the complaints procedure, within 3 working days of the start date, the Customer Relations Team will:

- a) send an acknowledgement to the complainant in writing which will include information about the complaints procedure and outline next steps.
- b) allocate the complaint to the relevant manager who will respond to the complaint (respondent)

Within 4 working days of the start date, the respondent will attempt to contact the complainant on the telephone or in writing to offer to discuss their complaint. If they are unsuccessful on their first attempt, they will make several attempts and will write to the complainant if unable to make telephone contact. If the complaint is about a relatively minor issue, a 15 working day timescale is standard and will be agreed during a telephone call. If the complaint is complicated or the complainant wants to meet to discuss their concerns, the respondent may agree a different timescale up to a maximum of 6 months.

Within 2 working days of a telephone conversation or meeting with the complainant, the respondent will complete a Complaint Investigation Plan (CIP) to be sent to the complainant outlining:

- Complaints to be investigated
- Complaint's desired outcomes
- How the complaint will be handled (methodology), eg people to be interviewed, files to be read, policies and legislation to be examined
- When complainant should expect to receive a written response

During the investigation the complainant will be kept informed by the respondent about progress as far as reasonably practicable and will be notified of any delays, with reasons.

Within 15 working days (or negotiated timescale), the respondent will send a written response to the complainant to include:

- Explanation of how complaint was investigated
- Conclusions reached
- Actions to be taken as a result of complaint
- Information about escalation to the Local Government and Social Care Ombudsman

If a response is not sent within 6 months of the start date, the respondent will provide the complainant with an explanation for the delay, and provide a written response as soon as reasonably practicable.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

### **16.3 Complaints about service providers**

If a complaint about a service provider is received, the Customer Relations Team will ask the complainant whether s/he wishes the complaint to be referred to the provider. If so, the Customer Relations Team will send it to

the provider as soon as possible. The provider must deal with the complaint under their procedure.

If the complainant is dissatisfied with the provider's response to his or her complaint, s/he may escalate his or her concerns to the Council for consideration under this procedure.

If the complainant does not wish the complaint to be referred to the provider, the complaint will be allocated to the relevant manager responsible for commissioning the service for a response according to this procedure. This will involve examining the provider's records and interviewing staff as appropriate.

An individual may make two separate complaints, one to the Council and one to the provider. Alternatively, a complainant can make a single complaint to either the provider or the Council, with elements relating to each. In this case, the Customer Relations Team will liaise with the complainant and cooperate with the provider to provide a single response, wherever possible, keeping the complainant informed.

Outcomes, actions and service improvements are recorded for monitoring and reporting purposes.

## 17. Complaints from the Ombudsman

Council service users and customers can complain to either the Local Government and Social Care Ombudsman (LGSCO) <http://www.LGO.org.uk/> or the Housing Ombudsman (HO) <http://www.housing-ombudsman.org.uk/> about Council services. The Council is obliged to respond to any enquiry from either of these organisations, which are received by email.

The Customer Relations Team is the main point of contact to both Ombudsman organisations and all communications are sent initially to the Team. They will establish the nature of the required response and which service needs to reply and then forward it on with a request for action, where necessary.

### 17.1 Local Government and Social Care Ombudsman

The LGSCO's remit covers complaints about the majority of Council services and it is to them that the Council will refer all complainants who have exhausted the complaint procedures. The LGSCO will then write to the Council to ask the Council to do something or to inform the Council about something.

#### 17.1.1 Assessment

A member of the LGSCO Assessment Team seeks additional information from the Council in order to decide if they can conclude a complaint they have received, without investigation.

The information required is usually basic and should be readily available, eg copies of past correspondence with the complainant. The LGSCO sets a time scale by which they require this response, usually five working days. A quick turnaround is therefore necessary.

The Customer Relations Team will relay this request to the relevant service asking for a response within the time scale.

#### 17.1.2 Investigation

An LGSCO investigator will write to the Council setting out a summary of the complaint, asking a set of questions and requesting a range of documents. They may also include a copy of the complaint that has been made to them.

A strict timescale (generally 2-3 weeks) is set within which the response must be sent to them.

The Customer Relations Team will ask the relevant Service Manager to produce a draft response to the LGSCO investigation, which will be sent to the Customer Relations Team for checking and dispatch.

#### 17.1.3 Additional Information

Occasionally the information provided will not be sufficient for the LGSCO to reach a conclusion and they will ask for further information. This is not always accompanied by a deadline for response but a swift reply is necessary.

#### **17.1.4 Draft Decision**

This is where the LGSCO has reached a conclusion and wishes to share it with the Council and the complainant before producing the final decision.

There are three situations in which the LGSCO will send a Draft Decision.

1. They have been unable to reach a view from the information provided solely by the complainant and want to give both the complainant and the Council an opportunity to comment in case there is other evidence that may affect the final decision.
2. The information gathered as part of the assessment process has provided sufficient information for them to reach a provisional view and they want to give both the complainant and the Council an opportunity to comment in case there is other evidence that may affect the final decision.
3. The LGSCO investigator has completed their investigation and wants to give both the complainant and the Council an opportunity to comment in case there is other evidence that may affect the final decision.

The Draft Decision comes in a standard format with the names of the complainant(s) anonymised. It provides an explanation of what they found and the decision they have reached. A deadline for response is set, usually about a fortnight.

Even if the Council has no comments and is happy with the conclusion, a response within the deadline is expected.

The Council can challenge a Draft Decision that finds failure but only by providing evidence to prove its position. It is more likely to be a case of making minor adjustments or pointing out errors.

The Customer Relations Team will liaise with the relevant Service Manager or Director to determine the response to be sent to the LGSCO.

#### **17.1.5 Final Decision**

The Final Decision document looks similar to the Draft Decision but brings to a close the LGSCO investigation. The Final Decision will contain the LGSCO finding on the complaint, any remedy they expect the Council to put in place, including any financial remedy to be made.



This will be sent to the relevant senior Manager by the Customer Relations Team with a deadline for the implementation of any remedy.

The LGSCO may use the term “maladministration” for findings of failure by the Council. This covers a wide range of situations from small scale errors to significant failings.

#### **17.1.6 Confirmation of Remedies**

Where the Ombudsman has found fault and recommended a remedy or remedies the service must ensure that they complete the remedy within the agreed timescale and provide evidence of this to the Customer Relations Team. The Customer Relations Team will pass this to the LGSCO and confirm to the service when the LGSCO confirms their acceptance of the remedy and closes the case.

#### **17.1.7 Publication of Decisions**

The LGSCO generally publishes all decision notices on their website. All identifiers for complainants, officers and third parties are anonymised. Decision notices are searchable by Local Authority, therefore any case that is investigated by the LGSCO has an associated reputational risk and may be picked up by news agencies or other interested parties whether or not alerted by the complainant.

#### **17.1.8 Issue of a report**

In most cases, the provision of the remedy as instructed in the final decision is all that needs to be done. However, on very rare occasions there can be a finding of “Report issued: Upheld; maladministration and injustice”. What this means is that the LGSCO will produce a report on the complaint detailing the failure, the expected remedy and produce a press release for the media. Where this occurs, the Council will be required to place a notice in two local publications bringing the LGSCO findings to the public’s attention and make copies of the report available to the public.

The Customer Relations Team will forward this to the relevant senior manager for their attention. The senior manager will:

- arrange for the notices to be placed in newspapers
- make copies of the report available to the public
- inform the Council’s media team that the LGSCO will be issuing a press release criticising the Council.
- discuss the matter with the media team and agree how this should be managed.
- arrange for the report to be reviewed by a relevant committee of elected members.

The Customer Relations Team will offer advice and guidance to service managers

## **17.2 Housing Ombudsman**

The remit of the HO is confined to complaints that have arisen between social housing tenants (and leaseholders) and their landlords. Unlike the LGSCO, their responsibility is not solely to reach a conclusion about the complaint. Their initial approach is to explore the prospects for reaching an agreement between the two parties. The Housing Ombudsman expects landlords to ensure that its complaint handling is compatible with its published Complaint Handling Code.

### **17.2.1 Housing Ombudsman Definition of Complaint**

The Housing Ombudsman defines a complaint as: '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'. Whilst this differs slightly from the Councils adopted definition (which comes from the LGSCO), it is not so different as to make the Council non-compliant with the HO's Complaints Handling Code.

### **17.2.2 Communications from the HO**

The Customer Relations Team is the main point of contact and all communications are passed back and forth via the Team.

The starting point is usually a request for information that will explain to the HO the Council's position with regard to the complainant. The Customer Relations Team will forward this request to the relevant senior manager asking that they provide information for a response to be made. It may require more than one exchange to satisfy the HO.

### **17.2.3 Mediation**

The HO would prefer cases are resolved locally, and may offer landlords and complainants a mediation service where this is appropriate.

### **17.2.4 Investigation**

Should the HO decide to investigate a complaint, their approach is very similar to that of the LGSCO. They will write to the Council detailing the complaint and providing a set of questions/requests for information along with a deadline for reply. The Customer Relations Team will ask the relevant senior manager to produce a draft reply. This will be checked by the Customer Relations Team before it is sent to the HO.

### **17.2.5 Final Decision**

Once the Investigator has completed their investigation they will send a letter in which they provide a conclusion possibly including orders or recommendations that they consider will provide an appropriate remedy.

### **17.2.6 Compliance**

A recommendation is not enforceable and represents more of a suggestion than a request. An order must be followed. The service must ensure that the remedies are completed within the given timescale and provide evidence of this to the Customer Relations Team. The Customer Relations Team will pass this to the HO and confirm to the service when the case is closed.

### **17.2.6 Appeal against Decision**

Both the Council and the complainant have the opportunity to appeal the conclusion but this must be done within three weeks. The HO will revisit a conclusion where a remedy has been requested to ensure it has been implemented.

### **17.2.7 Publication of Decisions**

The HO will publish decision notices on their website. All identifiers for complainants, officers and 3rd parties are anonymised. Decision notices are searchable by Landlord, therefore any case that is investigated by the HO has an associated reputational risk and may be picked up by news agencies or other interested parties whether or not alerted by the complainant.

### **17.2.8 Complaint Handling Order**

If the Housing Ombudsman is dissatisfied with the way the Authority as a Landlord handles a complaint, they may issue a complaint handling order. This could be reported to any appropriate regulatory agency. This may also result in a report from the ombudsman that may need to be publicised in a similar way to the LGSCO scheme.

## **18. Unreasonable complainant behaviour**

There is a distinction between persistent complainants and unreasonable complainant behaviour (UCB). Complainants may be persistent because they feel the Council has not dealt with their complaint properly and are not prepared to leave the matter there. It is also the case that almost all complainants see themselves as pursuing justified complaints.

For example, criticising the complaints procedure when the standards set out are not met is not unreasonable. If complaints procedures are working properly, then responding to expressions of dissatisfaction and requests for information should not cause the Council any particular problems.

However, some complainants may have justified complaints but may pursue them in inappropriate ways. Others may pursue complaints which appear to have no substance or which have already been investigated and determined. Their contacts with the Council may be amicable but still place heavy demands on staff time, or they may be emotionally charged and distressing for all involved.

### **18.1 What is unreasonable complainant behaviour?**

It is not easy to provide an exhaustive definition of unreasonable complainant behaviour because there are a range of situations that might be covered by the term. However, in essence, it can be described as a citizen (or their representative) who pursues a complaint in an unreasonable or illogical manner. Unreasonable complainant behaviour might involve:

- persisting in complaint about a matter which has already been fully considered using the Council's complaints procedure
- regularly complaining about trivial matters which have not had an adverse effect on them
- refusing to cooperate with a complaint investigation process
- becoming obsessed with one or more minor aspects of their complaint
- unwillingness to accept established facts or reasonable solutions
- insisting on a complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice
- repeatedly refusing to identify the exact issues that they want the Council to investigate
- making unjustified complaints about staff who are trying to deal with the issues and seeking to have them replaced
- persisting in making a complaint about something that is not within the Council's remit
- changing the basis of the complaint as the investigation proceeds
- making unreasonable demands on staff time e.g. excessive correspondence, constant telephone calls, emails or faxes and unreasonable demands for meetings
- repeatedly failing to accept that their demands are unreasonable or their expectations unrealistic
- denying or changing statements s/he made at an earlier stage

- adopting a scattergun approach by submitting the same complaint to numerous tiers within the Council and different staff or other organisations
- taking up Council resources disproportionate to the seriousness or possible outcome of the complaint
- introducing trivial or irrelevant new information at a later stage
- asking many detailed but unimportant questions, and insisting they are all answered
- covertly recording meetings and conversations
- submitting falsified documents from themselves or others
- submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints
- refusing to accept the decision, repeatedly arguing points with no new evidence

## **18.2 Taking action**

Where staff members form the view they are dealing with unreasonable complainant behaviour, the matter will be referred to the Customer Relations Team who will give consideration to the case and whether the policy should be applied.

The decision to designate someone's behaviour as unreasonable and restrict their access to complaints procedures could have serious consequences for the individual. The Customer Relations Team should be satisfied that:

- the complaint is being or has been investigated properly
- any decision reached on it is the right one
- communication with the complainant has been adequate
- the complainant is not providing any significant new information that might affect the Council's view on the complaint

If the Customer Relations Team is satisfied that the above criteria have been met and that the complainant is behaving unreasonably, one or more of the following steps will be taken.

- Offer the complainant a meeting with an officer of appropriate seniority to explore whether there is scope for a resolution of the complaint and explain why their current behaviour is seen as unreasonable
- Share this policy with the complainant and warn them that restrictive action may need to be applied if their behaviour continues
- Set up a strategy meeting to agree a cross-departmental approach
- Appoint a key officer to coordinate the Council's response(s)
- Where appropriate or possible, help the complainant to find a suitable independent advocate, especially if the complainant has specific needs

If these measures are unsuccessful, further action may be required. This will be proportionate to the nature and frequency of the complainant's current contacts. The following options may be suitable, taking into account the complainant's behaviour and circumstances. The objective is to manage

the complainant's unreasonable behaviour in such a way that their complaint can be concluded quickly (if not already complete), without further distractions. Options include:

- Placing limits on the number and duration of contacts with staff per week or month
- Offering a restricted time slot for necessary calls
- Limiting the complainant to one medium of contact (telephone, letter, email etc)
- Requiring the complainant to communicate only with one named member of staff
- Requiring any personal contacts to take place in the presence of a witness and in a suitable location
- Refusing to register and process further complaints about the same matter

If a decision is taken to restrict access, the complainant must be written to with a copy of the policy and procedure to explain:

- what restrictions are being applied
- why the decision has been taken
- what it means for his or her contacts with the Council
- how long any limits will last and
- what the complainant can do to have the decision reviewed

Where a decision to restrict access has been made, the complainant will be advised that future correspondence will be read and placed on the file but not acknowledged, unless it contains materially new information. A designated staff member from the service will be identified who will read future correspondence.

Records will be kept as follows:

- when the Customer Relations Team has rejected a request from a member of staff for the policy to be imposed
- when a decision is taken to restrict access
- when a decision is taken to make an exception to the policy once it has been applied
- when a decision is taken not to put a further complaint from the complainant through the complaints procedure for any reason
- when a decision is taken not to respond to further correspondence. It is important to ensure any further letters, faxes or emails from the complainant are checked to pick up any significant new information
- any other significant information

When complaints about new issues are made, these will be treated on their merits. The Customer Relations Team will consider whether any restrictions previously applied are still appropriate and necessary.

**Reviewing decisions to restrict access**

When imposing a restriction on access, there will be a specified review date not longer than twelve months ahead. Limits will be lifted and relationships returned to normal unless there are good grounds to extend them.

The complainant will be notified of the outcome of the review and, if limits are to be continued, an explanation will be provided along with a date for the next review.