

Managing Children's and Adults Social Care Complaints

Policy

Approval date:

1. Introduction

- 1.1 This policy sets out the Council's duties when responding to Statutory complaints about Children's and Adult's Social Care and is the policy from which the procedures for managing service user complaints are developed and where the specific instructions are defined.
- 1.4 This policy falls under the wider umbrella of the *Making Service User's Experience Count* Strategy which sets out the Department's vision and aims for using service user experience to help drive service quality improvement
- 1.5 This document brings together the Adult and Children's social care complaints policies into one policy.
- 1.6 The policy does not cover complaints which fall outside of the definitions in section 4. Complaints which are not covered in Section 4, including those about Public Health and Schools, are covered by the Council's Corporate Complaints policy.

Background

- 1.7 Bolton Council is a learning organisation. This means that we value the feedback our service users give us as it helps us to continually improve the quality of our services.
- 1.8 All feedback from service users about our services is seen as an opportunity to learn and to improve the services we provide or commission.
- 1.9 Social care staff work very hard to get the job right first time but, with busy services, mistakes can happen. However, if services can get their response to these mistakes right, the people affected are less likely to be unhappy and future problems can be prevented.
- 1.10 When a mistake has happened, it is important to acknowledge it, put things right quickly and learn from the experience.
- 1.11 In every case, those who complain should feel confident that their complaint will be dealt with properly – in other words, that it will be handled efficiently and investigated.
- 1.12 The Children's and Adult Service is committed to the protection of service users and is committed to the 'duty of candour' which places a duty on all professionals to be open and frank with service users.

We will ensure as far as practically possible, that:

- Service users, or where appropriate, their next of kin, will be fully informed of any incident in our care which is suspected of having caused or may result in harm to the service user in the future
- That staff are provided support in reporting incidents

2. Aims

2.1 The aims of this policy are

- To ensure statutory Adult and Children's Social Care complaints are handled in the correct way.
- To ensure the Department '**learns lessons**' from the experiences of our service users and improves the quality of services as a result.
- To help create a culture that encourages people to share their experiences so that we can make services more effective, personal and safe.

3. Context

Adult Social Care

3.1 These procedures are based on the content of the following statutory instruments and guidance issued as Section 7 Guidance under the Local Authority Social Services Act 1970:

- Statutory Instrument 2009 No 309 – The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- Listening, Responding, Improving – A Guide to Better Customer Care (26 February 2009).
- NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012/3094.
- Data Protection Act 1998.
- Equalities Act 2010.
- The Care Act (Implementation Date 1st April 2015).

Children's Social Care

3.2 These procedures are based on the content of the following statutory instruments and guidance issued as Section 7 Guidance under the Local Authority Social Services Act 1970:

- Statutory Instrument 2006 No 1738 – The Children Act 1989 Representation Procedure (England) Regulations 2006.
- Getting the Best from Complaints – Social Care Complaints and Representations for Children, Young People and Others.
- NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012/3094.

- Data Protection Act 1998.
- Equalities Act 2010.

4. Definitions

4.1 The Council's definition of a complaint and the one which this policy adopts is:

“A complaint is a way of letting the Council know that you are not happy with a particular service. A complaint may be about delay, lack of response, discourtesy or about the standard of service you have received”

4.2 A statutory social care complaint is set out in law and is anything which relates to the social care services that the Council either provides or commissions.

4.3 Complaints falling outside of this description are dealt with under the Corporate Complaints Procedure.

4.4 Service users can offer their comments at any time to any service that we provide or that we commission – we welcome feedback. Service users should be reassured that the service they are receiving will never be adversely affected by giving feedback and service users can comment anonymously if they wish. General comments do not form part of the formal complaints procedure and if service users wish to complain please **refer to the “Making Experiences Count Procedure”**. Making general political comments about Social Care Services is also not part of this procedure.

5. Principles

5.1 When someone makes a complaint it is because they have received a service which, to them, has been unsatisfactory.

5.2 It is important to note that the Department supports a ‘no-blame’ culture. This means that whilst staff are accountable for their actions, the process of investigating complaints is not about apportioning blame or being defensive but identifying practice which has led to an unsatisfactory service user experience and putting things right so that it does not happen again.

5.3 **Continuous improvement is everybody's business.** The experience of service users depends on all staff putting the quality of the service they deliver at the heart of their work.

5.4 How you can do it:

1. **LEARN** so that we know why something went wrong and what can be done to stop it happening again.
2. **IMPROVE** something in your service to avoid the same thing happening again.

3. **SHARE** what you have done so that your colleagues and our partners can learn and improve what they do too.

4. **REPEAT** points 1-3 because improving quality is what we do.

5.5 In Summary we will focus on:

- Getting it right first time
- Being service user focused
- Listening
- Being open and accountable
- Acting fairly and proportionately
- Seek continuous improvement and learn lessons
- Putting things right

5.6 Through this policy and procedures we hope to make clear that we are committed to gathering service user's views and to enabling service users to share their experiences about our services in order to listen, learn and improve our services as a result of those shared experiences

6. **Managing Statutory Social Care Complaints**

6.1 Where possible, complaints should be resolved quickly and informally. Informal resolution is often what the service user wants and is a far more effective and efficient use of staff resources.

6.2 Where informal resolution is not possible, it must be considered whether this policy applies or whether it should be dealt with under an alternative process (see procedure document).

6.3 Statutory Children's and Adult social care complaints follow a multi-stage process which ensures formal complaints are investigated thoroughly and complainants have a right to an appeal. The process for managing complaints is set out in more detail in the procedural document which accompanies this policy.

6.4 Complaints which fall into the definitions outlined in **Section 4 of this policy** should follow the following process.

- Stage 1 – Investigation
- Stage 2 – Appeal (Children only)
- Stage 3 – Review Panel (Children only)

6.5 Following completion of this process, the complainant has recourse to the Ombudsman. . Usually, all stages of the Local Authority's complaints procedure must be completed before the Ombudsman will look at any complaint. The Ombudsman can look at complaints about things that have

gone wrong in a way that a service has been delivered; if the service has not been delivered at all; the way a decision has been made and has caused problems for you. The Ombudsman cannot question what a Council or Care Provider has done simply because you don't agree with it.

- 6.6 All children's complaints will normally have a right to access Stage 2 and Stage 3 once accepted at Stage 1.
- 6.7 The Quality Assurance and Improvement Team are responsible for facilitating the complaints process. For help with this policy or process please contact quality@bolton.gov.uk or phone 01204 334239.
- 6.8 Guidance for managers and staff on implementing the above procedure is available on the Quality Assurance intranet page.

7. Safeguarding

- 7.1 Where the person involved in a complaint is a child, young person or vulnerable adult and there is reason to believe that a person is deliberately or unknowingly causing them harm or has caused them harm, then consideration must be given to the safeguarding implications, both to the person at the centre of the concerns and to other vulnerable children, young people or vulnerable adults who are potentially at risk in relation to the concerns.
- 7.2 Safeguarding investigations will take precedence to the complaints investigation.
- 7.2 Harm covers:
 - Physical
 - Sexual
 - Psychological
 - Financial
 - Neglect
 - Emotional
 - Verbal
- 7.3 Harm can be caused by an act or omission or be passive or active in nature. Where there are any indications that there are safeguarding implications, the complaint will, at the point of receipt, be discussed with the appropriate Head of Service. Any safeguarding investigation will take precedence to the complaints investigation. The complaint will be logged by the Quality Assurance and Improvement Team pending the outcome of the safeguarding investigation. A letter confirming this will be sent to the complainant informing them of this.
- 7.4 Further safeguarding guidance can be found via the [Safeguarding Vulnerable Adults](#) and/or [Safeguarding Children's](#) Web page.

8. Who Can Make a Complaint?

Adult Social Care

8.1 A complaint can be made by:

- Any person who is receiving or has received services from Adult Social Care.
- Any person who is affected by the action, omission or decision or the responsible organisation which is the subject of the complaint e.g. a family carer, a parent or guardian.

8.2 A complaint may also be made by a representative of a person who:

- Has died.
- Is unable to make the complaint themselves because of physical incapacity.
- Lacks capacity within the meaning of the Mental Capacity Act 2005.
- Has requested the representative to act on their behalf.
- Has legal power to act on a person's behalf, i.e., Power of Attorney.

Children's Social Care

8.3 A person is eligible to make a complaint where the Local Authority has a power or duty to provide, or to secure the provision of, a service for that person and the need or possible need for such a service has come to the attention of the Local Authority. This also applies to a person acting on behalf of someone else.

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

- Any child or young person (or parent or person who has parental responsibility) who is being 'looked after' by the local authority or is a 'child in need'.
- Any local authority foster carer including those caring for children placed through independent fostering agencies.
- Children leaving care.
- Special guardians.
- A child or young person (or parent) to whom a special guardian is in force.

- Any person who has applied for an assessment under Section 14 F (3 or 4).
- Any child or young person who may be adopted, their parents or guardians.
- Persons wishing to adopt a child.
- Any other person to whom arrangements for the provision of adoption services extend.
- Adopted persons, their parents, natural parents and former guardians.
- Such other persons as the Local Authority consider has sufficient interest in the child or young person's welfare to warrant his representations being considered by them.

9. Who is Exempt From This Policy and Procedure?

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

- The person wishing to complain does not meet the requirements in as set out in the procedures
- Where the same complaint has already been dealt with at all stages of this procedure.
- The complaint is unclear, frivolous or vexatious.
- The complaint should be dealt with under other proceedings such as:
 - ❖ Disciplinary proceedings.
 - ❖ Grievance procedure.
 - ❖ Complaints from staff about personal issues.
 - ❖ Complaints that should be considered under the Council's Corporate Complaints Procedure.
 - ❖ Services for which an alternative statutory appeals process already exists.
 - ❖ Criminal investigation where court action is pending.

9.2 The Council has discretion in deciding whether to consider complaints where to do so would prejudice any of the following concurrent investigations:

- Court proceedings.
- Tribunals.
- Disciplinary proceedings.
- Criminal proceedings.

10. Time Limit for Making a Complaint

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

- a) Twelve months after the incident occurred.
- b) Twelve months after the complainant realised they had reason to complain.

10.2 If a complaint is made outside of these time limits, the Department may decide to accept the complaint if the complainant had good reasons for not doing so within the stipulated time period, and it is still possible to investigate effectively and efficiently. Each instance will be considered on its own merit and a decision made by the Head of Quality Assurance and Improvement.

11. Complaints About Residential facilities.

11.1 Complaints made by children, young people or adults or their representative about the service they have received in a children's home or adults residential care facility run by Bolton Council will be handled under this procedure.

11.2 Complaints from members of the public or from those not listed above, about Children's Homes/Care Homes run by Bolton Council will be dealt with under the [Corporate Complaints Procedure](#).

11.3 Complaints about Children's Homes/Care Homes run by other organisations and commissioned by Bolton Council must be made to the organisation concerned. However, as part of their contract, organisations must make Bolton Council aware of all complaints received so that responses, learning and improvement can be monitored.

12. Complaints Made by Adults in Receipt of a Direct Payment

12.1 Adults who pay for their services with a Direct Payment should complain directly to their care provider in the first instance. Direct Payment recipients have their own contract with the providers of care and therefore must make their complaint directly to their care provider.

12.2 Complaints about their care assessment or financial assessment can be made under this policy.

13. Collective Complaints

13.1 Where a group of children, young people, adults or their representatives wishes to make a complaint, and the issues being raised are substantially the same or linked or they make the complaint together as a group, then these can be treated as one complaint.

14. Anonymous Complaints

14.1 Anonymous complaints should be recorded and referred to the Quality Assurance and Improvement Team in the same way as other complaints. This policy does not apply to anonymous complaints but they may be referred and investigated under other procedures such as whistleblowing or HR.

15. Complaints by Foster Carers

- 15.1 Local Authority foster carers are eligible to make representations and complaints on behalf of children and young people under these procedures in accordance with S.26(3) and S.24(d) of the Children Act 1989 and S.3(1) of the Adoption and Children Act 2002, regulation 12 of the Children Act, 1989 Representations Procedure (England) Regulations 2006.
- 15.2 Foster carers may also wish to make representations about the service they receive from the Council as foster carers. In the absence of specific guidance or regulation about this, Bolton Council has decided that such complaints will be considered to be Social Care Complaints (matters relating to services provided for children and young people) and subject to the same process as other matters within these procedures.
- 15.3 Where a foster carer wishes to make representations about aspects of the process for reviewing their approval as a foster carer (6.1.3 Assessments and Approvals of Foster Carers S.10 Provision of Foster Care Services), they should do so within 28 days of the Fostering Panel Meeting, prior to the Assistant Director making a decision. Any such complaint will be dealt with at **Review Panel Stage** of these procedures.
- 15.4 Where a prospective foster carer feels aggrieved about aspects of the application process, they may make a complaint to the Department prior to the Assistant Director making a decision regarding their suitability to become a foster carer (6.1.3 Assessment and Approvals of Foster Carers S.10 Provision of Foster carers) revision of Foster Care Services). Any complaint must be made within 10 working days of the second fostering panel meeting and will be investigated under this procedure. The Assistant Director will make a decision within ten working days of the resolution of the complaint based on the recommendations of the fostering panel and any recommendations of the complaints process. This decision is final.

16. Independent Social Care Providers

- 16.1 Independent social care providers which are commissioned by Bolton Council to deliver services on its behalf are not covered by this policy. Independent social care providers have their own complaints procedures and complaints about their services should be directed to the organisation providing the care.
- 16.2 There are a number of instances when an exception would be made to this, which is:
- When the complainant has already complained to the provider and is not satisfied by the response.
 - When the Complaints Manager considers it be a matter that relates more directly to the exercise of the local authority's functions which are covered by this procedure.
 - When the complaint is about the Registered Manager.

- When the complaint relates to issues which have been previously identified as an area of concern for the provider, or when there are on-going issues with the performance of a provider.
 - When the complaint has safeguarding implications – consideration should be given to Bolton’s [Safeguarding Adults](#) and [Safeguarding Children’s Policy](#) as with any other concern of this nature. If appropriate, consideration should be given at the initial receipt of information as to whether there is any possibility the Independent Social Care Provider’s Responsible Person is directly involved or complicit.
- 16.3 When complaints do come to the Council about an independent provider, the complaint will be passed to the provider to investigate and a copy given to the Contracts Team for intelligence purposes.
- 16.4 Independent providers must, as part of their contract, make Bolton Council aware of all complaints received so that responses, learning and improvement can be monitored.

17. Confidentiality and Consent

- 17.1 All information received by the Department will be treated in strict confidence and will not be shared with any third party without the consent of the service user with the exception of becoming aware of a safeguarding concern.
- 17.2 Any relative, carer or friend of a service user is entitled to make a complaint about the service they have received.
- 17.3 **The Department can only provide a response to the complainant with the consent of the service user, their next of kin or person deemed to have sufficient interest.** This is in line with guidelines laid down by the Data Protection Act 1998 in the interest of protecting service user confidentiality. The Act states that service user consent is fundamental to the collection and use of personal information and that releasing information without the service user’s consent could amount to “unlawful disclosure”.
- 17.4 For complaints made by a third party about the service received by a child, due regard must be given to the ‘**Fraser Guidelines**’. The ‘Fraser Guidelines’ say that young people who are under 16 are competent to give valid consent to a particular intervention if they have sufficient understanding and intelligence to enable them to understand fully what is proposed and are capable of expressing their own wishes.

18. Advocacy and Support

Adult Social Care

- 18.1 Regulation 3(2) (d) of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 prescribes that service users/complainants receive, so far as is reasonably practical have:
- Assistance to enable them to understand the procedure in relation to complaints.

- Advice on where they may obtain such assistance.
- 18.2 Complainants will be made aware that they can request an advocate to support them through the complaints process, including at a first meeting.

Children's Social Care

- 18.3 Complaints handling by the Council must be child and young person friendly and appropriate to their age and understanding. The Council is required to provide information about the advocacy service and offer help to obtain an advocate.
- 18.4 Parents or guardians who are complaining on a child's behalf may be offered advocacy to support them if they have a disability which affects their ability to engage fully in the complaints process. Evidence of their disability should be provided so that the resource is allocated appropriately.
- 18.5 For matters requiring legal support, complainants will be sign-posted to the Citizen's Advice Bureau (www.boltoncab.co.uk) or via their own solicitor.

19. MPs and Councilors

- 18.1 MP and Councilor complaints about social care will be dealt with and progressed in line with the corporate complaints procedure.

20. Withdrawal of Complaints

- 20.1 Complaints may be withdrawn orally or in writing at any time. The Complaint and Improvement Officer/s must be informed immediately if this happens. The Quality Complaint and Improvement Officer/s must then contact the person making the complaint confirming their decision.
- 20.2 The Complaint and Improvement Officer/s, Service Manager and Head of Service may review the issue of concern and consider whether further investigation is required through other internal management systems

21. Learning Lessons and Service Improvement

- 21.1 By listening to people about their experiences of social care services, the Department can resolve issues faster, learn new ways to improve and prevent the same problems from happening in the future. In short, by dealing with complaints more effectively and learning from them, services can get better, which will improve things for the people who use them as well as for the staff working in them.
- 22.2 Complaints will not be 'closed' until learning and improvement actions have been identified. The Quality Assurance and Improvement Team will assist Investigating Officers in this process and monitor whether actions are being implemented.
- 23.4 It is everyone's responsibility working in Children's and Adult Services to learn from service user's experiences and share the learning with colleagues and

partners so that service quality can improve. Guidance on learning and sharing is available in '*Learning and Sharing Guidance*'.

22. Disciplinary Proceedings

22.1 In some cases it may be necessary for disciplinary action to be taken against a member of staff. However, this will be a decision for managers and will be a separate and confidential process. The Complaints Procedure is only concerned with resolving complaints and not with investigating disciplinary matters. The purpose of the Complaints Procedure is not to apportion blame amongst staff, but to investigate complaints with the aim of satisfying complainants whilst being fair to staff.

23.2 Bolton Council will not inform the complainant of the actual result of any disciplinary action, only that it has been concluded and that the incident has been managed in accordance with the appropriate Human Resource (HR) policies.

23. Complaints by Members of Bolton Council Staff

23.1 Where a member or members of staff wish to make a complaint on behalf of a service user, these procedures should be followed. With regard to other complaints, consideration should be given to whether the matter should be addressed under the [Council's Grievance Procedure](#), [Corporate Complaints Procedure](#) or Whistleblowing procedure.

23.2 Where an employee or a group of employees are aggrieved about their own situation, this would be considered under the Council's [Grievance Procedure](#).

23.3 No member of staff will be discriminated against as a result of making a genuine complaint. The [Council's Whistleblowing](#) procedure may apply.

24. Complaints in Relation to Court Proceedings

24.1 Complaints can be made regarding:

- Application for care and supervision orders.
- The effect of a care order on a child or young person.
- The Local Authority's actions and decisions where a care order is made.
- Performance of duties where a supervision order is in force.
- Application for and duties in relation to child assessment orders.
- Application for Emergency Protection Orders.
- Decisions relating to the return of children who have been removed on an Emergency Protection Order.

- Quality/accuracy of social work information and reports provided to court.
- The duties of the local authority in relation to the placement of children for adoption by adoption agencies.

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

- 24.2 If the complaint is about the decision of the court, the complainant will be encouraged to seek legal advice about making an appeal at court. This will **not** be dealt with as a complaint. If the complaint is about the actions of the local authority and its staff it may be considered under this procedure.
- 24.3 If proceedings are ongoing, they cannot be frozen pending the outcome of a complaint. The outcome of a complaint **cannot overturn a court's decision**. If the substance of the complaint alleges inaccuracies in the information provided to court that might influence the decision of the court, the complainant will be encouraged to seek legal advice to address this within the court arena. This will be treated as a concurrent consideration.
- 24.4 Other matters may be considered while proceedings are ongoing, e.g.
- Attitude / behaviour of staff.
 - Delays in providing services.
 - Failure to make appropriate contact arrangements.
- 24.5 If the complaint is resolved before court proceedings are concluded, the Service Manager must consider whether the outcome has a bearing on the court proceedings and advise the court as necessary.
- 24.6 If the outcome of the complaint finds that inaccuracies in the information provided to court may have influenced the decision of the court, this may form the basis for the service user/complainant to make applications to the court for a decision to be reviewed.

25. Complaints and Special Guardianship Support Services

- 25.1 Special Guardianship Regulations 2005 came into force on 30 December 2005, under those Regulations the following functions may be the subject of a representation or complaint:
- financial support for Special Guardians;
 - support groups for children and young people to enable them to discuss matters relating to Special Guardianship;
 - assistance in relation to contact;
 - therapeutic services for children and young people; and
 - assistance to ensure the continuation of the relationship between the child or young person and their Special Guardian or prospective Special Guardian.

26. Unreasonably Persistent Complainants

26.1 The Council acknowledges that every service user has a right to complain.

26.2 Features of a 'persistent complainant' may include:

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

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

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

26.4 On most occasions when we consider someone's behaviour unreasonable we will explain why and ask them to change it. We will also warn them that if the behaviour persists we will take action to restrict their contact with our services.

26.5 If the behaviour is so extreme that it threatens the immediate safety and welfare of our staff we may report the matter to the police or consider taking legal action. On such occasions we may not give any warnings.

26.6 The Council will not tolerate deceitful, abusive, threatening, violent or other forms of unacceptable behavior from complainants. When it occurs we will take proportionate action to protect the well-being of our staff and the integrity of our processes.

26.7 In line with the Council's Unreasonable Complainant Behaviour Policy, the Monitoring Officer will decide whether the circumstances justify any restriction to services.

27. Valuing Diversity

27.1 Bolton is a distinctive and diverse place. The Council values diversity in all its service users and employees and our aim is that our services, facilities and resources are accessible and useful to every citizen, regardless of gender,

age, ethnic origin, religious belief, impairment, marital status, sexual orientation or any other individual characteristic, which may unfairly affect a person's opportunity in life.

28. Standards

28.1 Our standards:

This describes what people can expect from our complaints procedure.

Accessibility

- We will have different methods for leaving feedback and these will be well publicised; easily accessed and understood by staff and the public.

Communication

- We will make direct contact with the person making the complaint and maintain contact throughout the complaints process.
- We will confirm in writing the complaint and the outcome(s) the complainant wishes to achieve.
- We will discuss with the complainant the best way of communicating with them and use plain English in all of our communications.
- We will ensure effective communications between council staff and between the council and its partners regarding complaints.

Timeliness

- We will respond to complaints as soon as possible and within the timescales outlined in the procedures.
- We will, where possible, try and resolve a complaint to the complainant's satisfaction within 24 hours.

Fairness

- We will deal with complaints fairly and ensure that responses are proportionate.

Credibility

- We will appoint someone suitably senior in the organisation to investigate and respond to complaints.
- We will carry out a secondary investigation where someone remains dissatisfied with the response.

Accountability

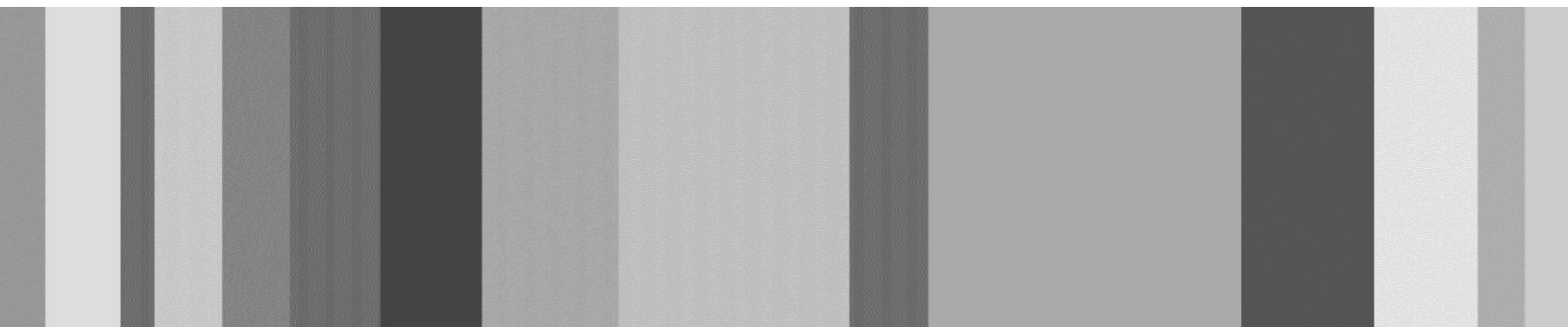
- We will ensure information is provided in a clear and open way and is properly managed.
- We will follow up complaints to ensure any decisions are properly implemented and any improvement activity takes place.
- We will regular monitor learning and service improvement to ensure timescales and satisfaction levels are met;
- We will ensure there is periodic review of the service improvement process, to keep action plans up to date.

Response

- We will provide a response which answers each of the complainant's concerns. The response will provide an explanation for each concern and say clearly whether the complaint is upheld or not.
- We will say what we will do as a result of the complaint.
- We will apologise where we have delivered a service which has not been satisfactory.

**Bolton
Council**

**Managing complaints
effectively – A guide for
staff and managers**



1. Introduction

This guide outlines the process for dealing with statutory social care complaints.

Statutory Children's and Adult social care complaints follow a multi-stage process which ensures formal complaints are investigated thoroughly and complainants have a right to an appeal.

Social Care complaints which fall into the definitions outlined in Section 4 of the policy should follow the following process.

- Informal resolution
- Investigation
- Appeal (Children Social Care only)
- Review Panel (Children Social Care only)
- Ombudsman

2. The Complaint

Service users can tell us their complaint in the following ways:

- Online - the 'do it online' section enables service users to submit comments, compliments and complaints.
- By telling a staff member in the service they want to complain about.
- By e-mailing quality@bolton.gov.uk
- By completing a feedback card
- By writing to Children's and Adult Services, Quality Assurance and Improvement Team First Floor, Town Hall, Bolton, BL1 1RU

3. Dealing with the complaint informally

With any complaint it is always essential to try and resolve it in the first instance informally. Try and resolve any complaint brought to your attention there and then by telephone or face to face. Most concerns can be resolved at this stage even if the complainant insists on speaking to a Manager. Just because someone wants to make a complaint does not mean it needs to go through the formal process.

In many cases, a complaint can be resolved by a simple change to a situation or apologising for why something has happened (or not happened) and putting it right.

It is important to treat the complaint seriously and not to be defensive. Often, complaints can escalate if the complainant feels they have not been listened to or treated badly when they have raised an issue of concern. We can avoid unnecessary complaints if we get our first response right.

Suggestions for getting it right:

- Listen carefully to what they have to say
- Apologise if service has not been satisfactory or explain to them why something has happened
- Ask the complainant what they would like to see happen
- If what they want is not possible, suggest some alternatives.
- Seek help from your manager

If there are safeguarding concerns identified in the complaint (that is a child or an adult with care needs who is being abused or at risk of abuse), these should be referred to the social care duty teams and your manager as soon as possible.

4. Making it formal

If an informal resolution is not possible or if the complainant asks to make a formal complaint then you should record the following information:

- The name of the person who is making the complaint
- Their address, telephone number and e-mail address
- The nature of their complaint and the outcome they desire
- Date the complaint was received
- How the complaint was received

You should let your manager know and send the information to the Quality Assurance and Improvement Team quality@bolton.gov.uk . If the complaint is in a written format, please scan it and then email as above. Complaints made over the phone can be transferred to the QA team on ext. 4239.

Complainants will be called back to confirm their complaint and their desired outcomes by the QA team. At this point, an advocate will be arranged for the complainant if that is required.

Formal complaints will then normally be investigated by a senior manager and, in most cases, a response sent within 20 working days of acknowledgement.

5. Investigating a formal complaint (Stage 1) (Children and Adults Social Care)

A Stage 1 investigation will normally be the responsibility of the manager of the team subject to the complaint.

Complaints should be investigated and responded to within 10 working days of acknowledgement (or 20 working days in extenuating circumstances)

The purpose of an investigation is to:

- Establish the facts
- Identify what has gone wrong
- Identify what can be done to rectify the situation for the complainant
- Identify any improvement activity to avoid the same thing happening again in future

- Produce a response for the complainant which sets out clearly the findings, whether their complaint has been upheld or not and what actions the Council has or will be taking.

6. Conducting the investigation

It is important to investigate complaints thoroughly at the first stage. Failing to do this will create more work in the future and make the service user more dissatisfied. Even where the facts do not support their complaint, we want our service users to feel that we have taken the time to deal with their complaint properly.

- Deal with everything raised by the complainant. Normally, the complaint will have been confirmed with the complainant in writing by the QA Team and this is the complaint which should be investigated. If you need to clarify anything with the service user or their representative contact them as soon as possible. Don't make assumptions or ignore anything as this can lead to dissatisfaction and extra work;
- Investigate all issues thoroughly talking to relevant people where required;
- If it is clear that there have been oversights/errors on our part, these should be acknowledged and an explanation given about what we will do to change;
- Collate evidence to support any statement we use to address any issue raised;
- Check if there are any previous complaints from this person;
- If the complaint is about proposed action by the Department, consider whether the action should be deferred while the complaint is investigated;
- Maintain confidentiality at all times and consider the legal implications of your actions;
- When investigating a complaint, be impartial and fair; avoid unfair discrimination against any particular individuals, groups or section of the community.
- Don't be defensive, establish the facts and draw your conclusions. It's ok to say "sorry" so long as we say what we will do differently next time.

Further guidance on conducting an investigation can be found on the QA Intranet page.

7. Guidance for Interviewing

If you are investigating a complaint you may occasionally be required to interview those involved. Seek advice from HR if appropriate.

- Prepare the line of questioning for each person to be interviewed.
- Use open questions (What? Why? How? When?)
- Ask single questions that are easy to understand.
- You may need to advise interviewees that they are entitled to a friend or trade union representative to be present.
- Consider whether you need a witness for any difficult interview.
- Keep the atmosphere informal and relaxed.
- Be persistent in your questioning and don't be afraid of asking the same question twice.
- Separate hearsay from fact by asking interviewees how they know a particular fact.
- Summarise the main points covered and ask the interviewee if they would like to add anything.

- Make a formal record of the interview while it is still fresh in your mind.

8. Your Written Response

Your response should be written and summarise your findings giving a clear indication of whether the complaint is up-held, partially up-held or not up-held. A response template can be found on the Quality Assurance and Improvement Team's intranet page

- All complaints should be replied to in writing so that we and the complainant have a written audit trail.
- Take time to prepare your reply. Deal with each point in turn stating the outcome of your investigation and any action that will be taken.
- Ensure that the response answers all matters raised and provides a clear explanation in simple plain English avoiding the use of Council terminology and jargon.
- Be clear about what action the Department will take to improve. Phrases such as *"...as a result of your complaint we will..."* can be used to demonstrate the direct impact they have had by bringing the issue to us.
- Include a paragraph explaining what further action a service user or their representative can take if they remain dissatisfied with the outcome to the complaint.
- When you have completed your response send a copy to the service user and the Quality Assurance team

A note: It is important to keep all information and documents relating to the complaint. Under the Freedom of Information Act, the service user may ask to see all information you have gathered regarding the complaint.

Once the investigation has been completed, Investigating Officers will be asked to complete a Learning and Improvement form which is designed to capture the actions taken as a result of the complaint. Complaints will not be 'closed' until this form has been returned to the QA Team.

9. Appeal (Stage 2) (Children' Social Care only)

If the service user or their representative is not satisfied with the stage 1 response they can 'appeal'. The appeal must be made within 20 working days of receipt of the stage 1 response.

If someone appeals the outcome of stage 1, the matter will normally be investigated again by a manager independent of the service subject to the complaint. This person will be appointed by the Assistant Director responsible for that service.

The purpose of the stage 2 investigation is to look again at the facts and check the complaints procedure has been followed.

The stage 2 investigation will be overseen by an Independent Person appointed by the QA team.

A Stage 2 investigation response template is available on the QA intranet site.

10. Review (Children's Social Care only)

If the complainant remains dissatisfied after the stage 2 investigation, they have a right for their complaint to be reviewed by a panel of independent people.

The role of the Panel is to review the way in which the complaint has been investigated and, if required, make recommendations to the Council.

The Panel will be arranged and facilitated by the Quality Assurance and Improvement Team.

Guidance for managers is available on the QA Intranet page,

11. Local Government Ombudsman

Once this complaints process has been exhausted (following the Stage 1 investigation for Adult Social Care and the Review Panel stage for Children's social care), and the complainant remains dissatisfied, they can refer it to the Local Government Ombudsman (LGO).

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

Maladministration can be defined as something that has been handled badly or unfairly, causing someone to suffer as a result. This also includes:

- Unreasonable delay
- Rudeness
- Failure to follow proper procedures
- Bias
- Knowingly giving advice which is misleading or inadequate, and
- Refusing to answer reasonable questions

The Local Government Ombudsman cannot question a Council's decision but will look at the effect of the decision on the complainant to see whether it has caused any injustice.

12. Complaints and Improvement Officers

The Complaints and Improvement Officer's role is to facilitate the complaints process. They will:

- Acknowledge formal complaints with complainants
- Record information on the complaints system
- Liaise with Investigating Officers to ensure complaints are dealt within the required timeframe
- Ensures Learning is captured and improvement actions are followed through
- Facilitate progress through the complaints process

13. Frequently Asked Questions

Q. What do I do if the complaint is to more than one department or service within a department?

If a complaint covers the work of more than one department, or services within a department, it should be forwarded to the Quality Assurance and Improvement Team to determine the service area most involved in the complaint. The Quality Assurance and Improvement Team will then contact the others involved to ensure a joint response on behalf of all departments covering all the issues raised is completed.

Q. What do I do if the complaint is brought by a Councillor or Member of Parliament?

Councillors and MPs may bring a formal complaint by acting as an advocate for their constituents. These complaints must be dealt with in accordance with the complaint procedure.

If you receive a complaint from a Member or MP, whether initiated by them or in their capacity as advocate, you should keep them up to date with the progress of the complaint and inform them of your findings when the issue has been resolved. If a Member presents you with multiple complaints you should record and process each one separately. All these complaint must be logged with the Quality Assurance and Improvement Team

Q. Anonymous Complaints

Some complainants may wish to remain anonymous when complaining. Anonymous complaints should be handled in the normal way and recorded for monitoring purposes, however if the complainant had not provided contact details it will not be possible to tell them the outcome of their complaint.

Q. Complaint or Court Action

In the first instance seek advice from your Head of Service. If we know that legal action has been instigated, though not if it has only been threatened, the matter can be referred to Legal Services for advice.

Q. How soon should a Service User Complain?

It is expected that service users will raise their complaints within a reasonable timeframe. However, the Local Government Ombudsman guidelines state that a complaint will not be investigated if it is about something the complainant knew about more than 12 months before contacting the Local Authority for the first time, unless the Local Authority thinks that there are good reasons for the delay.

Useful contacts

Quality Assurance and Improvement Team

Tel: 01204 334130

Email: quality@bolton.gov.uk

<http://portal.bolton.gov.uk/CHILDRENSSERVICES/PLANNINGPERFORMANCEANDRESOURCES/QUALITYASSURANCEANDIMPROVEMENT/Pages/default.aspx>

Local Government Ombudsman

PO Box 4771

Coventry

CV4 0EH

Tel: 01904 380200 / Advice Line: 0845 602 1983

www.lgo.org.uk

Care Quality Commission

St Nicholas Building

St Nicholas Street

Newcastle upon Tyne

NE1 1NB

Tel: 03000 616161

E-mail: enquiries@cqc.org.uk

Ofsted

Piccadilly Gate

Store Street

Manchester

M1 2WD

Tel: **0300 123 1231**