



SOCIAL CARE COMPLAINTS AND REPRESENTATIONS FOR CHILDREN, YOUNG PEOPLE AND OTHERS

STATUTORY COMPLAINTS PROCEDURE

The aim of the Complaints Procedure is to demonstrate the willingness of the Service to accept criticism or disagreement and to solve problems. It is part of the Council's continuing commitment to quality assurance and improving the services provided.

The emphasis should be on:

- listening to children, young people and their carers to allow us to learn from our mistakes
- changing practise to ensure the same mistakes do not happen again
- seeking to achieve a resolution acceptable to all parties

The complaints procedure is **not** about fault finding or apportioning blame.

COMPLAINTS PROCEDURE

CHILDREN'S SOCIAL CARE

1. What is the legislation behind the complaints procedure?

- 1.1 The Children Act 1989 required Social Services Directorates to establish, from 14 October 1991, a formal procedure to consider representations, including complaints, about the services it provides for children. On 1 September 2006 new Regulations came into force which are more specific and update the previous legislation.
- 1.2 The legislation is supported by guidance "Getting the Best from Complaints" published by the Department for Education and Skills in August 2006. A copy of this document is available from the Complaints Manager if required.
- 1.3 The Children's Social Care Procedure is part of Bournemouth Borough Council's corporate framework for responding to comments, both positive and negative, about its statutory services (including statutory services that fall within Children and Young People Services i.e. Child Health and Disability Team, was Inclusion Team.) The expectation is that the majority of complaints received about Children Social Care will be dealt with under this procedure. Some general matters and complaints about policy decisions may however be dealt with through the Corporate Complaint's Procedure.

2. What is a representation?

- 2.1 A representation may not always be a complaint; it might be a positive comment or remark or even an idea on how services might be improved.
- 2.2 Children and young people should be able to put forward proposals about the service they receive or the establishment they live in without it being framed as a complaint for example: "I miss seeing my brother because I go to the family centre on a Friday. It would be better if I went on another day" or "I like having contact with my mother and sisters but the place where we meet is cold and depressing. I would prefer to meet somewhere which is more homely".
- 2.3 In both the examples above the local authority must respond to the comments. Whilst recording the requests in the file together with the outcome please also ensure that a copy of this is sent to the Complaints Manager to enable her to, as required by the 2006 Regulations, record and monitor such instances. If the authority does not respond to the child

or young person's representations, then they have the right to complain at Stage 1 about this failure.

- 2.4 A representation may also be a compliment and should be recorded as such with the Complaints Manager (see paragraph 25).

3. What is a complaint?

- 3.1 A complaint may be generally defined as an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires response. Children and young people often express complaints as 'problems not being sorted out'.

4. What may be complained about?

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

- An unwelcome or disputed decision;
- Concern about the quality or appropriateness of a service;
- Delay in decision making or provision of services;
- Delivery or non-delivery of services including complaints procedures;
- Quantity, frequency, change or cost of a service;
- Attitude or behaviour of staff;
- Application of eligibility and assessment criteria;
- The impact on a child or young person of the application of a local authority policy;
- Assessment, care management and review.

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

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

Part 4 of the Children Act, 1989,

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

Part 5 of the Children Act, 1989

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

4.3 Adoption Services

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

- Provision of adoption support services (as prescribed in regulation 3 of the Adoption Support Services Regulations 2005) insofar as these enable adoptive children to discuss matters relating to adoption;
- Assessments and relation decision for adoption support services as prescribed in regulation 3 of the Adoption Support Services Regulations 2005 (Parts 4 and 5 of the Adoption Support Services Regulations 2005);
- Placing children for adoption, including parental responsibility and contact issues (sections 18 - 29 of the 2002 Act)
- Removal of children who are or may be placed by adoption agencies (sections 30 - 35 of the 2002 Act);
- Removal of children in non agency cases (section 36 – 40 of the 2002 Act);
- Duties on receipt of a notice of intention to adopt (section 44 of the 2002 Act);
- Duties set out in regulations in respect of:
 - A local authority considering adoption for a child (part 3 of Adoption Agency Regulations 2005);
 - A proposed placement of a child with prospective adopters (part 5 of the Adoption Agency Regulations 2005);
 - Placement and reviews (part 6 of Adoptions Agency Regulations 2005);
 - Records (part 7 of Adoption Agency Regulations 2005);
 - Contact (part 8 of Adoption Agency Regulations 2005).
- Parental responsibility prior to adoption abroad (part 3 of Adoptions with a Foreign Element Regulations 2005).

4.4 Under the Special Guardianship Regulations 2005 any of the following functions may the subject of a complaint or representation:

- 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;

- Assistance to ensure the continuation of the relationship between the child or young person and their Special Guardian or prospective Special Guardian.
- 4.5 Children and their carers also have the right to complain to their Borough Councillor or MP. The complainant should be advised, when seeking their consent to respond to the MP, of the complaints process as appropriate. There is also a right to complain to the Local Government Ombudsman but experience suggests that it is expected that complainants will have used all three stages of the Complaints Procedure before making an approach to the Ombudsman.
- 4.6 Significant areas of the councils' functions are excluded from the procedure. For example, the procedure does not cover complaints from foster carers about children they used to look after; or their working relationships with the council or decisions about whether to place or remove children. Such complaints may instead be considered through the Council's Corporate Complaints Policy. Similarly, Section 47 of the Children Act 1989 which gives councils a duty to investigate if they suspect a child is suffering or likely to suffer harm is not specifically covered by the complaints procedure. However, councils can, if they wish, extend the procedure to other areas of complaint.
- 4.7 The Pan Dorset Safeguarding Children's Board operates a separate complaints procedure for Child Protection Conferences that should be adopted where the complaint concerns;
- The process of the conference;
 - The outcome, in terms of the fact of and/or the category of primary concern at the time the child became the subject of a child protection plan;
 - A decision for the child to become, to continue or not to become, the subject of a child protection plan.
- 4.8 Complaints should be made in writing to the Conference Chair and the Independent Reviewing Officers Manager will investigate and issue the response. Whilst a complaint is being considered, the decision made by the Conference stands.
- 4.9 The outcome of a complaint will either be that a Conference is re-convened under a different Chair, that a review conference is brought forward, or that the status quo is confirmed along with a suitable explanation. There are no further stages in this process, the complainant should be advised of their right to contact the Local Government

Ombudsman with their response. The complaints manager should record the complaint and monitor the response in the usual way.

5. Who may complain?

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

- Any child or young person (or parent of his/her or someone who has parental responsibility for him/her) who is being looked after by the local authority or is not looked after by them but is in need;
- Any local authority foster carer (including those caring for children placed through independent fostering agencies) but see 4.7 above;
- Children leaving care;
- Special Guardians;
- A child or young person (or parent of his/her) to whom a Special Guardian order is in force;
- Any person who has applied for an assessment under section 14F(3) or (4);
- Any child or young person who may be adopted, their parents and guardians;
- Persons wishing to adopt a child;
- Any other person whom arrangements for the provision of adoption services extend;
- Adopted persons, their parents, natural parents and former guardians;
- Such other person as the local authority consider has sufficient interest in the child or young person's welfare to warrant his/her representations being considered by them.
- Where a complaint is received from a representative acting on behalf of a child or young person, the local authority should normally confirm, where possible, that the child or young person is happy for this to happen and that the complaint submitted reflects his/her views.
- The local authority is also likely to receive complaints by adults which relate to a child or young person but are not made on the child's behalf. The Children Act, 1989 gives discretion to local authorities to decide in cases where eligibility is not automatic whether or not an individual has sufficient interest in the child's welfare to justify his/her own complaint being considered by them wherever possible checking with the child that they are happy for this to happen.

5.2 The complainant may withdraw their complaint at any stage.

6. What happens if the complaint is about an NHS body as well?

6.1 Sometimes a complaint crosses over boundaries between a local authority and the NHS. Where this happens people who use services should not

have to worry about whom to approach with complaints about different aspects of the service they receive.

- 6.2 Where the complaint consists of elements relating to both social services functions and services provided by an NHS body, the Complaints Manager should, within 10 working days, ask the complainant if he/she wishes the details of the NHS complaint to be sent to the relevant NHS body.
- 6.3 The regulations place a duty on local authorities and NHS bodies to cooperate with each other and to agree which of the two bodies takes the lead in handling complaints against them in order to provide a coordinated response. Please refer to the joint protocol that is in place.

7. What is not covered by the Complaints Procedure?

- 7.1 The following matters do not come within the remit of the complaints procedure:
- Grievance procedures for staff such as conditions of service, management and support;
 - Disciplinary procedures for staff arising from their actions;
 - Anonymous complaints – these should be recorded and monitored by the Complaints Manager and, where it is felt necessary, investigated;
 - Court or criminal proceedings;
 - Tribunals.
- 7.2 Complaints which are not from children or their carers but concern some action, or lack of action, by Children Social Care, are sometimes received. Whilst these cannot be passed through the statutory procedure they are none the less recorded and responded to in an appropriate manner.

8. What happens if the complaint is about a regulated service?

- 8.1 Regulated, or registered services, are required by the National Minimum Standards under the Care Standards Act 2000, to have their complaints procedure. However, confusion can arise particularly in relation to complaints about the following aspects of care:
- Commissioning;
 - Placement arrangements;
 - Placement monitoring;
 - Personal needs reassessments;
 - Contractual arrangements;
 - Service agreements;
 - Service quality;

- Care regime matters not covered by regulations and National Minimum Standards.
- 8.2 If the Complaints Manager receives such a complaint he/she will need to consider whether it is most appropriately dealt with by regulated service's complaints procedure or whether it is a matter which relates more directly to the authority's Children Act 1989 functions covered by this procedure.
- 8.3 Where the local authority is responsible for the original assessment of need that led to a placement and associated funding, then the complainant will (in most instances) have recourse to this procedure. The Children Social Care complaints procedure cannot be used for children or young people who are privately funded in regulated services.
- 8.4 Where the complaint consists of elements relating to both social services functions and services provided under the Children's Homes Regulations the local authority should co-operate with the provider to ensure that the complainant receives one response dealing with all aspects of the complaint.

9. What happens to complaints which involve Child Protection issues?

- 9.1 There are sometimes occasions when children in the care of the authority make a complaint about the actions of a member of our staff which could be considered as a child protection matter for example – "----- hit me and pushed me over" or "when ----- restrained me they touched me inappropriately".
- 9.2 Such instances should be recorded as a complaint by the Complaints Manager and then, dependent upon the decision of a case conference, either investigated as a child protection matter or as an ordinary complaint. Where there are allegations against professionals, such as social workers or foster carers, the LADO (Local Authority Designated Officer) must be informed and consulted. They will advise if it is a matter that should be investigated through the LADO process. Whichever route is considered more appropriate the Complaints Manager must be informed of the outcome in the usual way and the complainant should have a written response.
- 9.3 Should a complaint raise safeguarding issues then this should be referred without delay to the Multi-Agency Safeguarding Hub (MASH) or to the social worker currently holding the case.

10. What happens if the complainant says they want compensation?

- 10.1 If, as part of a complaint the complainant mentions compensation, the Ombudsman's advice is that the complaint should follow its regular course but the request for compensation should be included in the report either at Stage 1 or Stage 2. If the matter proceeds to Stage 3 the Review Panel will be aware of the request.
- 10.2 Complainants may also be advised to write to the Borough's Insurance Section at the Town Hall with details of their claim.

11. Is there a time limit for making a complaint?

- 11.1 Local authorities do not need to consider complaints made more than one year after the relevant event, or when this information became known to them. However, any such complaints must be passed to the Complaints Manager in the normal way. Consideration should be given to the reasons for delay in making a complaint and the Complaints Manager may decide to progress the matter. Even if the authority refuses to investigate the complaint, the complainant should always be made aware of their right to take the matter to the Local Government Ombudsman.

12. What is the role of the Complaints Manager?

- 12.1 "Getting the Best from Complaints" makes it clear that a Complaints Manager must be in post. They are responsible for the day to day management of the complaints procedure and ensuring that it operates within the legislative framework. Their tasks may include the following;
- Managing, developing and administering the procedure;
 - Overseeing the receipt and investigation of complaints;
 - Liaising with Independent Reviewing Officers;
 - Appointing Investigating Officers, Review Panellists and Independent Persons;
 - Promoting local resolution;
 - Monitoring the progress of investigations and ensuring smooth running;
 - Making recommendations on actions following an investigation;
 - Organising Stage 3 Review Panels;
 - Monitoring and reporting on timescales;
 - Maintaining a written record of complaints and their outcome;
 - Compiling an annual report;
 - Providing help and advice to children and young people who might wish to make a complaint;
 - Ensuring that advocacy services are explained, offered and provided when required.
 - Maintaining and analysing statistical information to feed into the planning and policy of Children Social Care;
 - The collection and recording of compliments to staff of Children Social Care and including these in the Annual Report;

- Providing advice and, where necessary, support to complainants, their carers, staff and managers in relation to the Complaint Procedure;
- Training staff, Review Panels and Independent Investigators/People.

12.2 If at any stage of a complaint you are unclear as to how to proceed it is vital to contact the Complaints Manager and seek their advice.

13. Is there provision for advocacy and support?

13.1 Making a complaint about a large organisation can be very frightening and worrying for many children and young people. During the course of making a complaint, they should actively be provided with information and advice.

13.2 “Getting the Best from Complaints” re-enforces the entitlement of children and young people to advocacy and support which is independent and confidential and which in Bournemouth is provided through a contract with Action for Children. For statutory guidance on advocacy provision please refer to “Get it Sorted: Providing Effective Advocacy Services for Children and Young People making a Complaint under the Children Act, 1989.”

13.3 The Complaints Manager should ensure that a suitable person meets the child or young person to discuss the complaints process and ensures that any questions or concerns that they may have are fully addressed. Where an advocate is being used, staff should ensure that the advocate is acting with the informed consent of the young person.

13.4 Staff should also consider how to meet the varying needs of complainants. This is particularly important in relation to complainants whose first language is not English and those with communication difficulties.

14. What happens at Stage 1?

14.1 A complaint can be made either in person, by telephone, via the Council’s website or in writing. ***If you receive a complaint you must pass it at once to the Complaints Manager.*** Once received by the Complaints Manager it is recorded and given a unique identity number. A written acknowledgement is sent to the complainant within 3 working days, if possible summarising the complaint including the outcome they wish to achieve.

14.2 If the detail of the complaint and the outcome required is unclear the complainant may be asked to sign and return an outline of the complaint thus confirming exactly what it is we are being asked to investigate. In the case of child or young person complaining, the Complaints Manager will ensure that advocacy services are available if necessary.

- 14.3 The Complaints Manager will send a copy of the complaint to the Team or Service Manager responsible for the service being complained about. Generally, complaints at Stage One are responded to by the Team Manager, however, as staff may not deal with complaints relating to their own practice, sometimes it is necessary for the Service Manager to respond. On receipt of the complaint, the Team Manager is asked to contact the complainant to discuss their complaint. In the case of a complaint from a young person, they can also use this opportunity to confirm how the young person would like to receive their response i.e. meeting and letter etc. They then make arrangements with their staff for the matter to be investigated and a written response (even where a meeting has taken place) sent or given to the complainant within **10 working days of the date of the letter of acknowledgement.**
- 14.4 It is understood that it will not always be possible for matters to be properly investigated within 10 working days. On these occasions it is vital that the complainant must be informed, in writing, of these delays and the reason for them. If necessary, in consultation with the Complaints Manager, the period can be extended by a further 10 working days. If the complainant has not received a response within a maximum of 20 working days, they have the right to take the matter to Stage 2 of the process.
- 14.5 ***Please ensure that copies of all correspondence to the complainant are sent to the Complaints Manager to enable the complaint file to be kept up to date.***

15. What do I do if I am asked to investigate a complaint at Stage 1?

- 15.1 Please bear in mind that the emphasis of the complaints procedure is on resolution at as earlier stage as possible. Please also remember the tight timescales within which the complainant must receive a response.
- 15.2 Once you receive the information on the complaint, unless there is a specific reason not to, please contact the complainant directly to ensure you are absolutely clear about what they want you to investigate.
- 15.3 When you have completed your investigation write to the complainant including in your letter:
- The complaint number;
 - A brief outline of the complaint;
 - Details of who you have spoken to and which records you have examined;
 - The outcome of your investigation;

- Action that will be taken to ensure a similar mistake does not occur again;
- If appropriate, any relevant apology;
- Thank the complainant for raising the issues;
- Confirmation that the complainant may proceed to Stage 2 if they are not satisfied and should therefore contact the Complaints Manager.

16. What happens at Stage 2?

- 16.1 If the complainant is not satisfied with the Stage 1 response, it is normally understood that they have **20 working days in which to express their dissatisfaction** and request the matter be progressed to Stage 2. However, please bear in mind that this is not a statutory time-scale but an administrative one. If a complainant requests a Stage 2 investigation after 20 working days have elapsed, the circumstances will be discussed by the Service Director and the Complaints Manager before a decision is reached but it is important not to disenfranchise the complainant.
- 16.2 Ideally the request for Stage 2 should be made in writing but however it is received complainants should again be asked to clarify the outcome they are seeking. The request to move to Stage 2 will be acknowledged, in writing, by the Complaints Manager who will again ensure advocacy services are available if necessary
- 16.3 Having informed the Service Director that the complainant wishes to progress to Stage 2, the Complaints Manager will then appoint an Investigating Officer and an Independent Person.
- 16.4 Prior to commencing the investigation, the Investigating Officer and Independent Person will meet with the complainant and produce a statement of their complaint and their desired outcomes. They will then want to meet with all staff involved in the issues raised, and their managers. They will examine relevant records and policy documents. Consideration should be given to approaching staff that no longer work within the Authority if involved in the issues raised. This may be done through HR to the relevant Authorities HR department, as sourced through the HCPC website. The HCPC standard 8 may be quoted if necessary which requires professionals to give helpful and honest responses to anyone who has made a complaint.
- 16.5 The timescales for Stage 2 are very tight as indicated below. Please ensure that you prioritise appointments with the investigators so as to facilitate a speedy completion.

- 16.6 When the investigation is complete the Investigating Officer, in liaison with the Independent Person, must produce a draft report which will be circulated for factual corrections to the complainant and current members of staff involved in the investigation. Once these are received back the Investigating Officer will prepare a final report which will include a chronology, conclusions and recommendations. This must be done within **25 working days of the date of the letter of acknowledgement.**
- 16.7 It is understood that it will not always be possible for matters to be properly investigated within 25 working days. On these occasions it is vital that the complainant must be informed, in writing, of these delays, the reason for them and when it is anticipated the investigation will be concluded. However, Stage 2 **must** be completed within a **maximum of 65 working days from the receipt of the Stage 2 request.**
- 16.8 The Independent Person will also provide the authority with a report which may include comments on:
- Whether the investigation has been conducted entirely in an impartial, comprehensive and effective manner;
 - Whether all those concerned have been able to express their views fully and fairly;
 - Whether the Investigating Officers report provides an accurate and complete picture of the investigation;
 - The nature of the recommendations or make their own recommendations.
- 16.9 The Complaints Manager will forward a copy of the Investigating Officer's final report to the Service Director who will act as Adjudicating Officer. The purpose of the adjudication to allow the authority to consider the report and identify:
- Its response;
 - Its decision on each point of the complaint;
 - Any action to be taken, with timescales for implementation.
- 16.10 As part of the adjudication the Service Director may wish to meet with the complainant, the Complaints Manager, the Investigating Officer or Independent Person.
- 16.11 Once the adjudication is complete the Service Director will write, still **within the 25 Day timescale from the receipt of the request to move to Stage 2**, to the complainant enclosing:
- The Investigating Officer's final report;
 - The Independent Person's report;
 - The adjudication.

- Details of the complainant's right to have the matter submitted to a Stage 3 Review Panel if they remain dissatisfied.

17. What do I do if the Investigating Officer wants to see me?

- 17.1 All the External Investigating Officers and Independent People used by the Complaints Manager are professional people. They have been DBS checked, had references taken on them and generally have considerable experience in all aspects of social care. They do understand what it is like to be a front line worker as well as the pressures of managing services.
- 17.2 The statutory timescales, as indicated in paragraphs 16.6 and 16.7, are very tight. Please therefore ensure that you make every effort to meet with the Investigating Officer at the earliest opportunity.
- 17.3 If you are apprehensive you are always very welcome to take somebody with you to the meeting perhaps a colleague or a union representative as long as they are not also involved in the complaint.
- 17.6 Prior to the meeting read through the file so that you remind yourself of the case and your part in it. Often complaints refer to matters which you are no longer involved in or which happened some months previously.
- 17.7 Answer the Investigating Officer's questions clearly and honestly. Nobody is trying to trick or intimidate you. The Investigating Officer will make notes as you speak so as to ensure they have an accurate account of what you said.
- 17.8 Once the Investigating Officer has completed their draft report you will be sent a copy so that you can correct any factual errors.
- 17.9 If at any time you remember something you forgot to say you can always contact the Investigating Officer either by email direct or through the Complaints Manager.

18. What happens if the complaint goes to Stage 3?

- 18.1 If the complainant is not satisfied with the Service Director's adjudication and response at Stage 2, **they have 20 working days in which to express their dissatisfaction** and request the matter be progressed to Stage 3 Review Panel.
- 18.2 Ideally this request should be in writing but however it is received complainants should again be asked to clarify the outcome they are seeking. The request to move to Stage 3 will be acknowledged, in writing, by the Complaints Manager.

- 18.3 Review Panels are designed to:
- Listen to all parties;
 - Consider the adequacy of the Stage 2 investigation;
 - Obtain any further information and advice that may help resolving 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 to complex situations;
 - Support local solutions where the opportunity for resolution between complainant and the local authority exists;
 - To identify any consequent injustice to the complainant where complaints are upheld, and to recommend appropriate redress;
 - Recommend any service improvements for action by the authority.
- 18.4 Review Panels should not reinvestigate the complaints nor should they be able to consider any substantively new complaints that have not been considered previously.
- 18.5 The Complaints Manager informs the Service Director that the complainant wishes to progress to Stage 3 and will then, ***within in 30 working days of having received the request***, hold a Stage 3 Review Panel.
- 18.6 The Panel must consist of three independent people not previously involved in the complaint investigation, who are neither members nor officers of the local authority. One member will be assigned as Chair.
- 18.7 Many complainants, particularly children and young people, may find this stage to be a stressful experience. It is important that the Panel is customer focused in its approach to considering the complaint and be child or young person friendly. The complainant may bring an advocate, carer or supporter if they wish.
- 18.8 10 working days prior to the date of the meeting, papers will be sent to all those attending. This will include the information on the complaint file, the Stage 2 report and adjudication and any documents which relate to the complaint so far. The Complaints Manager will also offer to copy any papers which the complainant wants circulated.
- 18.9 In addition to the complainant and their supporter and the Panel members, a senior manager from Children Social Care will attend as will the Complaints Manager and a Clerk to take the minutes of the meeting. The

Investigating Officer and Independent Person from Stage 2 will also be attending.

- 18.10 The Chair of the Panel will ensure that each person is able to present their views. Once the Panel members are satisfied that they have sufficient information on which to enable them to come to a conclusion, everybody except the Panel, Complaints Manager and minute taker leave.
- 18.11 The Panel then goes into closed session to deliberate on their findings and conclusions. The Panel is required to produce a written report containing a brief summary of the representations and their recommendations for resolution of the issues. They must send this to the complainant, the Executive Director, the Investigating Officer and Independent Person from Stage 2, within 5 working days of the Panel meeting.
- 18.12 The local authority must send its response to the Panel's recommendations to the complainant ***within 15 working days of receiving the Panel's report***. The response should be developed by the Executive Director setting out how the local authority will respond to the recommendations and what action will be taken. If the Executive Director deviates from the Panel's recommendations, he/she should demonstrate the reasoning.
- 18.13 If the complainant is still not satisfied with the outcome of the complaint they may refer the matter to the Local Government Ombudsman for their consideration.

19. What do the Local Government Ombudsmen do?

- 19.1 The Local Government Ombudsmen investigate complaints of injustice arising from maladministration by local authorities and certain other bodies. There are three Ombudsmen in England and they each deal with complaints from different parts of the country. They investigate complaints about most council matters including;
- Housing;
 - Planning;
 - Education;
 - Social Services;
 - Consumer Protection;
 - Drainage;
 - Council Tax.
- 19.2 The Ombudsmen can investigate complaints about how the council has done something. They cannot question what a council has done simply because someone does not agree with it.

- 19.2 The complainant must give the council concerned an opportunity to deal with a complaint against it first by using the council's complaints procedure. If the complainant is then not satisfied with the action the council takes he/she can send a written complaint to the relevant Local Government Ombudsman, or ask a councillor to do so on their behalf.
- 19.3 If the Local Government Ombudsman has decided to look into a complaint once it has been through the above process, he will ask the Complaints Manager, via the Council's Chief Executive, to provide relevant information about the complaint and any subsequent action taken to address the matter. The request will come with very tight timescales attached in which a response must be received. If you are requested to provide information for the Ombudsman by the Complaints Manager, please ensure that you deal with the request as quickly and in as much detail as possible.
- 19.4 The Ombudsman may make his decision based on the written information only or alternatively, he may decide to write or visit to investigate further. Which ever way he chooses he will write to the Council's Chief Executive with his findings and conclusion. He will also publish his findings on the Ombudsman's website.
- 19.5 There is limited scope for early referral to the Ombudsman who would generally expect a request to accept a complaint from the complainant rather than the council. The Ombudsman may agree to consider a complaint at an earlier stage where for example;
- The relationship between the council and complainant has broken down to the extent that the complainant has no faith in the process.
 - The complaints process cannot possibly deliver the only outcome the complainant wants (for example, the return of a child who has been taken into care or a ruling that abuse has not taken place.) In this instance they may prevent further delay by making a decision on the appropriate route to seek redress.
 - The complaints process has gone so far off track (for example because of unacceptable delay) that to continue with it risks compounding the complainant's potential injustice.
- 19.6 Circumstances where the Ombudsman may accept early referral from a Council are when;
- There has been a robust Stage 2 report upholding all of the complaint.
 - The majority of the complainant's desired outcomes have been met, and
 - Both parties agree to the referral.

19.7 The Ombudsman is expressly prevented by Schedule 5 of the Local Government Act 1974 from dealing with matters that concern the conduct of court proceedings.

20. Why are timescales so important?

20.1 The timescales referred to in this procedure are laid down in the regulation. The local authority is legally obliged to comply with them. Failure to comply with the timescales may result in the Ombudsman finding the authority guilty of maladministration and, in certain circumstances, injustice.

21. When are operational decisions frozen?

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

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

22. Why do we have an Annual Report on complaints?

22.1 The regulations (Regulation 13(3)) require the Complaints Manager to produce an annual report which should provide a mechanism by which the local authority can be kept informed about the operations of its complaints procedure. The report should be presented to staff, the relevant Scrutiny and Review Panel and should be made available to the regulator Ofsted and the general public.

22.2 The report should provide information about the following:

- Representations made to the authority;
- The number of complaints at each stage and any that were considered by the Local Government Ombudsman;
- Which customer groups made the complaints;
- The types of complaint made;
- The outcome of complaints;

- Details about advocacy services provided for complainants;
- Compliance with timescales and complaints resolved within agreed extended timescales;
- Learning and service improvement, including changes to services that have been implemented and details of any that have not been implemented;
- A summary of statistical data about the age, gender, disability, sexual orientation and ethnicity of complainants;
- A review of the effectiveness of the complaints procedure;
- Compliments.

23. How do we learn from complaints?

- 23.1 By the nature of the work undertaken by Children Social Care and the pressures on staff at all levels, it is clear that mistakes will be made. However, the same complaint should never arise more than once if we have learned from our mistakes.
- 23.2 Learning points and details of service improvements to be made as a result of the complaint are recorded by the Complaints Manager and reported to Children Social Care. The majority of Stage 2 investigation reports also contain recommendations for improvement as do some Stage 3 Review Panel reports and Ombudsman final decisions.
- 23.3 It is vital, if services are to be improved, for these recommended changes to take place. The Complaints Manager records the outcome of all complaints and where relevant, recommended service improvements.

24. What happens if people keep making complaints?

- 24.1 Children Social Care will not normally limit the contact complainants have with the complaints procedure. However, there are a small number of complainants who, because of the frequency of their contact with the local authority, hinder the consideration of their own complaints.
- 24.2 Where an authority encounters irresolvable and persistent complaints, it should consider all aspects of why this situation may be developing. It is important to distinguish between people who make a number of complaints because they really think things have gone wrong and people who make unreasonably persistent complaints.
- 24.3 Bournemouth Borough Council has an agreed policy in place for unreasonably persistent complainants which, when necessary, is implemented by the Complaints Manager in consultation with the Service Director. Very careful consideration is given to before applying this policy.

24.4 In all cases where the Complaints Manager and Service Director decide to treat someone as an unreasonably persistent complainant a letter will be sent to the complainant saying why it is believed they fall in to this category, what action is being taken and the duration of that action. The complainant must be informed how the decision can be challenged.

24.5 Where a complainant's complaint is closed and he/she persists in communicating about it, the Complaints Manager may, in consultation with the Service Director, decide to terminate contact with the complainant.

25. What do I do if I receive a compliment?

25.1 The Complaints Manager usually records more compliments than complaints each year because of the high quality of service usually provided.

25.2 If you receive a thank you card, letter or a telephone call expressing satisfaction with your actions please remember to forward details of this to the Complaints Manager so that the compliment can be included in the annual report and reports to senior managers.

26. Publicity

26.1 As soon as possible after receiving a complaint or representation, the local authority must provide the complainant with details of its procedure for dealing with complaints and advocacy services.

26.2 The complaints process is publicised to members of the community through the Council's staff, website, and written materials such as the leaflets below. This includes age appropriate publicity materials in the form of leaflets and use of an app, MOMO. The Council also has access to translation services and can provide the leaflet in other languages on request. The complaints leaflet is included in the introduction pack given to all new cases on initial contact with Children Social Care. Supplies are also available from the Complaints Manager.



26.3 Staff training relating to complaints will be available on Blitz later in 2017. Available modules will include Children Social Care statutory complaints process and complaints responses. On line training is provided to overcome time constraints in delivering and attending training for all, by allowing flexibility in delivery along with enabling a resource to remain available for future reference. The complaints manager is also on hand throughout the process to offer one to one advice and support to members of staff in dealing with and responding to complaints.

27. Confidentiality

27.1 A frequent worry of children and young people is that details of the complaint might be given to other people who do not need to know about it. The practise in Bournemouth is therefore to restrict full complaint details to the complaints files which are kept separately from the central Children Social Care management system, currently RAISE. The Team Manager may record on the file that a complaint was made but full details should not be made available. This not only protects the young person's privacy but also staff privacy should a complaint be in regards to a particular member of staff. The complaints manager may provide details of complaints to managers as needed.