

## **Statutory Complaints Procedures in Adults and Children's Social Care Services**

### **RECOMMENDATION**

1. To note the changes to the Statutory Complaints Procedure and the role of Standards Committee members at the Stage 3 Review Panel hearing

### **SUPPORTING INFORMATION**

- 2.1 On 1 September 2006, new Statutory Complaints Regulations came into force in both Adult and Children's Social Care Services in England.
- 2.2 It is important to emphasise the significance of providing an accessible, customer-focused complaints service that encourages service users to speak out about their experiences – both good and bad – and to challenge poor practice when they come across it.
- 2.3 In putting service users at the heart of the process, we ensure the procedure is fair to all involved, including members of staff, and that people with concerns, or who wish to complain, have access to effective support. Most importantly, everyone should be treated justly – with due dignity and respect. This is particularly relevant for people who are vulnerable, or who find it difficult to make their views known.
- 2.4 The procedure, consisting of three stages, is designed to ensure that people who complain have their concerns resolved swiftly and, wherever possible, by the people who provide the service locally.
- 2.5 The procedures are predicated on a number of principles being applied by the Department of Health and the Department for Education and Skills in England. These principles are listed at Appendix 2
- 2.6 A complaint may arise as a result of many things relating to statutory social services functions, such as
  - an unwelcome or disputed decision;
  - concern about the quality or appropriateness of a service;
  - delay in decision making or provision of services;
  - delivery or non-delivery of services, including complaints procedures;
  - quality, frequency, change or cost of a service;

- attitude or behaviour of staff;
  - application of eligibility or assessment criteria;
  - the impact on an individual of the application of a policy; and
  - assessment, care management and review
- 2.7 The handling and consideration of complaints consists of three stages – Stage 1: Local Resolution, Stage 2: Investigation, and Stage 3: Review Panel
- 2.8 At Stage 1, which must be within 12 months of the event being complained about, staff at the point of service delivery and the complainant should discuss and attempt to address the complaint as quickly as possible, and certainly within 10 working days, extendable in certain circumstances by a further 10 working days.
- 2.9 Where the matter is not resolved, or the complainant is dissatisfied with the local resolution response, the complainant can, within 20 working days, request consideration at Stage 2.
- 2.10 At Stage 2 an Investigating Officer, independent of the service being complained about, and, in the case of complaints concerning children or vulnerable adults, an Independent Person are appointed. The Investigating Officer has 25 working days, extendable to 65 working days in certain circumstances, within which to investigate and produce a report, and for the department to respond to the complaint.
- 2.11 Where Stage 2 of the procedure has been concluded and the complainant is still dissatisfied, he is eligible to request further consideration of the complaint by a Review Panel.
- 2.12 The purpose of the Review Panel is to consider whether the department adequately dealt with the complaint in the Stage 2 investigation. The Panel is there neither to reinvestigate the complaint nor to hear new matters not already dealt with at Stages 1 and 2. See Appendix 3.
- 2.13 The Review Panel must consist of three panellists; an independent person in the role of Chair, plus two other panellists.
- 2.14 For Panels hearing Children's Services complaints reviews the two panellists must be independent and cannot be elected members of the authority.
- 2.15 For Panels hearing Adult Services complaints reviews, one of the two panellists must be independent, whilst the other may be an elected member of the authority.

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<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 – Implications Appendix 2 – Key Principles Appendix 3 – Stage 3 Review Panels

<b>IMPLICATIONS</b>
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**Financial**

1. Implementation of the revised procedures will be managed within existing budgets.

**Legal**

- 2.1 The statutory complaints procedures for Adult Social Services are required by virtue of the Local Authorities' Social Services Complaints (England) Regulations 2006.
- 2.2 The statutory complaints procedure for Children's Social Services are required by virtue of The Children Act 1998 Representation Procedures (England) Regulations 2006.
- 2.3 Any person exhausting the Councils three-stage Statutory Complaints Procedures has the right to take that complaint to the Local Government Ombudsman

**Personnel**

3. Implementation of the revised procedures will be managed within existing staffing arrangements

**Equalities impact**

4. An Equalities Impact Assessment is being carried out as part of the development of the procedures to implement the Regulations

**Corporate Objectives and Priorities for Change**

5. Implementation of the Statutory Complaints Procedures comes under the Council's Objective of **Building Healthy and Independent Communities**.

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

## STAGE 3 REVIEW PANELS

### Purpose

1. Review Panels are designed to consider whether the department adequately dealt with the complaint in the Stage 2 investigation. They should do this by:
  - listening to all parties;
  - obtaining any further information and advice that may help resolve the complaint to all parties' satisfaction;
  - focusing on achieving resolution for the complainant by addressing clearly defined complaints and desired outcomes;
  - reaching findings on each of the complaints being reviewed;
  - making recommendations that provide practical remedies and creative solutions to complex situations;
  - supporting local solutions where the opportunity for resolution between the complainant and the department exists;
  - identify any consequent injustice to the complainant, where complaints are upheld, and to recommend appropriate redress; and
  - recommend any service improvements for action by the department.

### General Principles

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

### **Role Definition: Review Panellists**

#### **3. Panellists should:**

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

### **Role Definition: Independent Chair of the Review Panel**

#### **4. The Chair's role is to:**

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