

Customer Relations

Children's Social Care Complaints Policy

Last review date July 2019

Introduction

The services you receive from Children's Social Care in Leicestershire are personal to you, your children and family. We can only be sure if services are right for you if you let us know. We want you to tell us if we are doing things well or not. We want to hear your comments or views on how to improve services for you, your family and for other people too.

If you want to contact us with a complaint, there are procedures we have to follow. This document explains those procedures if you contact us with a complaint regarding Children's Social Care.

We recognise that making a complaint can be difficult, stressful and time-consuming. We hope the following information will make the process easier for you. It may be useful to remember:

- Do not delay (you should complain within 12 months of the incident / event of concern) We may not be able to help if the event occurred more than 12 months ago.
- Tell us straight away if you wish to enter the formal complaints procedure
- Put your complaint in writing (letter or e-mail) and be clear about your point (s) of complaint and what you hope to achieve by complaining. If you struggle with this our Complaints and Information team will assist you in recording your complaint.
- Include all contact details so that we may get in touch with you and remember to keep notes on who you speak to and when.

Contact Details for Complaints and Information Team

Address: County Hall, Championship Way, Glenfield, Leicester, LE3 8RA

Email: complaints@leics.gov.uk

Telephone: 0116 3057422

1 Legal Requirements

1.1 Legislation is put in place by Central Government to protect you and your rights as a customer. There are various Acts and Procedures we follow to ensure that you receive the level of customer service you should expect from Leicestershire County Council. The specific acts that relate to this guide are as follows:

1.2 The Local Authority Social Services Act 1970 (as amended by the NHS and Community Care Act 1990) requires social services to establish a complaints procedure for considering 'any representation' including a 'complaint' to the local authority in relation to the discharge of, or any failure to discharge, any of their Social Services functions in respect of a 'qualifying individual'

1.3 The Children Act 1989 Representations Procedure (England) Regulations 2006 provide the legal framework for the procedures in relation to social care functions. Where there is any inconsistency in these procedures and the regulations, the regulations shall prevail.

1.4 The School Standards and Framework Act 1998 places a duty on the governing body of maintained schools to manage complaints about the school. These complaints are therefore not the responsibility of the Local Authority

2 Glossary of terms

- **Service user** – is an individual who uses the service offered by Leicestershire County Council
- **Days** – refers to working days, this excludes Saturday, Sunday and any UK Public Holiday
- **Advocate** – is a person who speaks up for another person or group if they find it difficult to speak up on their own behalf
- **Local Authority** – is Leicestershire County Council

3 Why do we have this procedure?

3.1 Legislation ensures a fair and responsive representations procedure. We need to draw on the experience of customers, positive and negative, to bring about change and constantly work to improve our services; this procedure enables us to evidence these changes. Procedures need to be open, easy to access and responsive to enable customers to make representations.

3.2 The procedure is the method customers can use to express their concerns and be sure that they will be listened to and taken seriously. The Authority welcomes all feedback and is committed to improving services and promoting good practice.

3.3 Compliments about service delivery from customers and/or representatives should be recorded and the information shared to promote learning and improvements

3.4 Comments about services which do not present as a complaint or compliment may be statements about how services could be improved and should be recorded to enable the service to use suggestions to review the way services are provided. People may express disappointment, disagreement or observations about services without necessarily wanting to complain. Feedback of this nature will be recorded as a comment.

3.5 Representations may relate to policies of Children's Services. If someone raises a concern about a policy this should be recorded as a representation and those who have made the policy should be informed. Customers will receive feedback on their representations.

3.6 This procedure is part of Leicestershire County Council's corporate framework for responding to customer feedback about its services. Any complaints that do not meet the criteria for this procedure will be dealt with under the corporate procedure.

3.7 The County Council is committed to promoting equality of opportunity for all people. It recognises that some people may have concerns about making a complaint for fear of losing a service if they complain or fear being treated unfavourably. The customer will not be treated any differently as a result of making a complaint.

Customers will not be subject to withdrawal of a service or delay or suspension of a service as a result of making a complaint unless this is at the request of them

4 What are the main objectives of this procedure?

4.1 To provide an effective means for customers or their representatives to complain about the quality or nature of services and to satisfy those who complain or comment that they have been dealt with promptly, fairly, openly and honestly.

4.2 To ensure complaints are acted on with the focus on the customer's desired outcomes where these are realistic and achievable.

4.3 To resolve complaints quickly and as close to the point of service delivery as acceptable and appropriate.

4.4 To provide staff with an understanding of the objectives and requirements of the Complaints procedure.

4.5 To ensure all children and young people making or wishing to make representations or complaints have access to independent advocacy support

4.6 To promote problem solving and focus on improvements in complaints handling and to avoid apportioning blame.

5 What is a complaint?

5.1 A complaint may be generally defined as an expression of dissatisfaction with the quality or nature of the service provided, or the failure to provide a previously agreed service; or with the attitude or behaviour of a member of staff.

5.2 The complaints procedure is not an appeals procedure. For example, there are appeals processes or procedures for foster carers, foster placements, adoption & child protection conferences. Appeals against court orders will be to the court. Complaints relating to legal / court proceedings must be made within those proceedings and cannot be dealt with under the complaints procedure.

6 Who can make a complaint about Children's Social Care services?

6.1 A complaint about the discharge of / or failure to discharge a relevant function of social services (detailed in Appendix A) can be made by a person who the relevant function relates to, OR;

Where someone states they are acting on behalf of a child or young person in relation to functions under section 26(3)(e), (3b)(b) of (3c)(c) of the Children Act 1989 the local authority will decide if they have sufficient interest in the welfare of the child to warrant the complaint being considered.

In consideration of this matter, where it is appropriate to do so, the views of the child will be sought. If the local authority has cause to believe that a person is not acting in the best interests of the service user the complaint will not be considered. Any decision that a person is not a suitable person to represent the service user will be sent in writing to the proposed 'representative' with, as far as possible, reasons for the decision. The service user if of sufficient age and understanding will also be informed of the decision.

In assessment of eligibility to the statutory complaints procedure, Leicestershire County Council follows guidance from the Local Government and Social Care Ombudsman in that, in most instances, complaints from adults about the impact on them will be handled under our Corporate Complaints procedure.

6.2 Children or Young People making complaints about social care will be given information about advocacy support and assistance in obtaining an advocate if requested. The role of the advocate in the complaints procedure is to provide independent and confidential information, advice, representation and support.

6.3 Appendix B gives a detailed breakdown of who may be eligible to complain

7 What does this complaints procedure not cover?

7.1 Complaints will not be considered in cases where:

- a) The customer has stated in writing to the local authority that they are taking or intends to take proceedings in any court or tribunal
- b) The Local Authority is taking, or proposing to take, disciplinary proceedings against any person
- c) The Local Authority have been notified that any person is conducting an investigation in contemplation of criminal proceedings; or
- d) The Local Authority have been notified that criminal proceedings are pending and that consideration, or further consideration of the representations under these regulations would prejudice the conduct of any proceedings or investigation falling under this section of the procedures.

Where any of the above apply, the action being taken under paragraphs a-d will be known as concurrent consideration

The Local Authority will advise a customer in writing why a complaint has been excluded from these procedures and state what the 'concurrent consideration' is that has resulted in the exclusion

7.2 At the conclusion of a 'concurrent consideration' the customer may resubmit the original complaint no later than one year after the concurrent consideration has been concluded or discontinued.

7.3 Complaints about the following aspects of a child protection conference need to be addressed under the Local Safeguarding Children Board (LSCB) Appeals Procedure and should be addressed to the Chair of the conference in the first instance:

- The outcome, in terms of the fact of and/or the category of initial or continuing registration
- A decision not to register, to de-register or to continue registration

In the above 2 circumstances, the matter will be handled as an "appeal" rather than a complaint.

Full details of the LSCB appeals procedure can be found at the following website

http://lscb.proceduresonline.com/chapters/p_appeals_by_parents.html

7.4 Complaints about schools are the responsibility of the school and not the local authority. Please see sections 20 – 21 for more information on complaints about schools.

8 What are the time limits for making a complaint?

8.1 Complaints will not generally be considered where the subject of the complaint relates to events more than 12 months before the date the local authority receives the complaint unless:

- The local authority is satisfied that it would not have been reasonable to expect the complaint to have been made earlier than it was; and
- Although there had been a delay in making the complaint it is still possible to consider the complaint effectively and fairly

9 How do I make a complaint?

9.1 A complaint can be made to any member of staff orally or in writing.

9.2 Children or young people making their own complaints about social care will be given information about advocacy support and assistance in obtaining an advocate if requested. The role of the advocate in the complaints procedure is to provide independent and confidential information, advice, representation and support. If you would like further information on our advocacy services, please contact our Children's Right Officer.

10 How do I withdraw a complaint?

A complaint can be withdrawn orally or in writing at any time by the customer or their advocate. The withdrawal of a complaint will be acknowledged in writing.

11 The Complaints Procedure

The complaints procedure is divided into three stages

Stage 1 Local Resolution

Wherever possible a manager will send you a response within 10 working days.
Sometimes a complaint may take longer and be extended to 20 working days

If not resolved – or if there is agreement for investigation

Stage 2 Investigation

The Complaints and Information Team may arrange an impartial investigation. We will aim to let you have this reply with the outcome of the investigation within 25 working days. Sometimes investigations may take longer than this. If this happens you will be informed and advised of the outcome within 65 working days

If not resolved

Stage 3 Panel

The Stage 3 panel consists of three independent people and will usually meet within 30 working days of the Complaints and Information Team accepting your request. After the meeting the panel members will make recommendations to the Director of Children and Families within 5 working days on whether or not something else needs to be done about your complaint. The Director will write to let you know the final decision within 15 working days

If you are still unhappy with the response you can ask the Local Government and Social Care Ombudsman (LGO) to look at the issue again. The Ombudsman can be contacted at The Local Government and Social Care Ombudsman, PO Box 4771, Coventry, CV4 0EH
Tel 0300 061 0614; website: www.lgo.org.uk

Alternative options for resolving complaints (ADR) are detailed in Section 17 of this procedure.

12 Stage 1 – Local Resolution

12.1 The Local Authority will take all reasonable steps to consider and resolve the complaint at Stage 1 as soon as is reasonably practicable. However, the customer and local authority may agree that the complaint should not be considered at Stage 1 and should be considered at Stage 2.

12.2 The timescales for completion at Stage 1 are:

- a) 10 working days from the date on which the local authority makes a decision that a person is suitable to make a complaint or;
- b) In a case where the customer is a child or young person and they have asked for an advocate to be appointed, 10 working days from the date on which the advocate is appointed.
- c) In any other case, 10 working days from the date the complaint was received by the local authority

12.3 The start date may be a date later than that defined above at the request of a customer and in agreement with the local authority

12.4 The timescale for completion at Stage 1 may be extended up to a maximum of 20 working days where the local authority considers the complaint to be complex

12.5 Customers will be notified in writing of the outcome of the authority's consideration of the complaint; whether it has been upheld or not; the reasons why and the customers right to investigation (Stage 2)

13 Stage 2 – Formal Investigation

13.1 Complaints will progress to Stage 2

- a) At the customer's request where the complaint has not been resolved at Stage 1
- b) The customer and local authority are in agreement that the complaint should not be considered at Stage 1
- c) The Stage 1 investigation has not been concluded within the maximum 20 working days and the customer has indicated that they now wish to progress to Stage 2

13.2 When a complaint has been made orally and any of the above applies, the local authority will record the complaint in writing and invite the customer to comment on it. The local authority may amend the written complaint in light of the customer's comments.

13.3 The final written record will be the 'complaint' for the purposes of Stage 2

13.4 The complaint will be investigated by a person outside of line management of the service complained about. The customer will be kept informed, as far as is reasonably practicable, of the investigation

13.5 For social care complaints an Independent person will be appointed at Stage 2. See section 14 for further explanation of this role

13.6 The timescale for responding to Stage 2 complaints is 25 working days from receipt of the request to move to Stage 2 if the complaint has been received in writing and is clear; OR if the complaint was made orally, 25 working days after the date on which the record of complaint was amended and signed.

13.7 If a response at Stage 2 cannot be provided in the 25 working days detailed above the local authority will write and explain the reason for not being able to do so. The revised completion date will be no later than 65 working days from the Stage 2 start date

13.8 The adjudication officer will respond to the customer with their decision (s) based on the findings of the investigation report. The Stage 2 response to the complaint will inform the customer of their right to an independent review panel (Stage 3) and detail how to make this request.

14 The role of the Independent Person

14.1 The role of the Independent Person (IP) in a social care investigation is to have an overview of the process at Stage 2. They must be independent of the local authority in order to ensure a full and fair investigation is carried out. The independent person has a right to access files in order to validate and study information that the complaints investigator has accessed and to ensure procedures have been adhered to. The IP will provide a written comment to the Local Authority in the form of a brief account. The account will:

- Consider whether the investigation has been conducted entirely in a fair, impartial, comprehensive and effective manner where all those concerned have been able to express their views fully and without duress.
- Comment on whether the Investigator's report provides an accurate and complete picture of the investigation

14.2 The IP will be involved in any discussions about the action the authority will take in response to findings and conclusions at Stage 2.

14.3 The IP will be bound by a confidentiality undertaking

15 Review panel – Stage 3

15.1 Any request for a Stage 3 review panel must be made within 20 working days of receiving a response to a Stage 2 investigation. The customer must set out the reasons for dissatisfaction with the outcome at Stage 2.

15.2 On receipt of a request from a customer for a review panel, the local authority will convene a review panel within 30 working days.

15.3 The panel must consist of three independent people. The independent person appointed at Stage 2 may not be a member of this panel. One member of the panel should be assigned as Chair of the panel. In order that the Chair may contribute to the organisation of the panel, the chair is always appointed first – ideally within 10 working days of the complainant's request to proceed to Stage 3

15.4 The panel will consider any oral or written submissions made by the customer; any advocate; the local authority and any person whom the panel consider have sufficient interest in the representations to merit submissions being considered by them. The panel will also consider any oral or written submissions from the Investigating Officer and Independent Person appointed at Stage 2

15.5 If the customer attends the panel they may be accompanied by an advocate. Should the customer wish to bring any additional people, this will be at the Chair's discretion.

15.6 At the conclusion of the meeting the panel will decide on their recommendations and write a report setting out a summary of the representations and any recommendations to resolve the issues raised in the representations.

15.7 Within 5 working days of the panel hearing, the panel will send their report to the complainant, any advocate, the local authority, the independent person at Stage 2; and any other person the panel deem have sufficient interest to merit receiving the report

15.8 Within 15 working days of the notification of the panel's decisions the local authority will consider the panel's recommendations and decide how the authority will respond to them and what, if any action it proposes to take in response. The authority's response will be sent to the customer including information on the role of the Local Government and Social Care Ombudsman and details of how to complain to her.

16 Early referrals to the Ombudsman

16.1 Where a request to proceed to Stage 3 is received and the complaint has been subject to Stage 2 and the following factors apply:

- A robust Stage 2 report has been completed

- An adjudication has been completed where the outcome has upheld all significant complaints relating to service delivery in respect of the complainant;
- There is a clear plan to remedy the complaints
- The adjudicator agrees to meet all or most of the desired outcomes presented by the complainant at Stage 2; and
- The Complaints Manager believes that further consideration by a review panel would not produce a demonstrably different outcome:

The Complaints Manager can then discuss the possibility of early referral to the Local Government and Social Care Ombudsman with the complainant.

16.2 The Council cannot refer a case to the Ombudsman. This needs to be done by the complainant.

16.3 The LGO will apply a test of reasonableness to the decision of early referral. A range of outcomes could include referral back to the authority or LGO intervention.

17 How else can you resolve my complaint?

17.1 When dealing with complaints the focus should always be on resolution. This may mean that an alternative method to the complaints procedure could be considered (conciliation). The clock for the purposes of the statutory complaints procedure will stop when the agreement to enter conciliation is reached.

17.2 There may be scenarios where a pending decision or assessment is pivotal to resolution of the issues. In such situations, the Complaints and Information Manager may write to the complainant explaining this and setting reasonable time-frames for concluding this piece of work and before the complaint will be accepted.

This will not be longer than 3 months at which point the Complaints Manager will contact the complainant and either agree a purposeful extension or accept the complaint irrespective of the outstanding work.

17.3 The outcome of this must be clearly documented and sent in writing to the complainant.

17.2 Conciliation is a meeting chaired by the Complaints Manager or a Complaints Officer between a manager and the complainant (and / or their advocate) to try to resolve the complaint through discussion

17.3 For complex cases, another option may be mediation. This is a more formal process whereby the local authority will appoint a trained mediator to meet both parties and chair a meeting to look for a proposed solution.

17.4 Where the complainant agrees to either conciliation or mediation as an alternative method of complaints resolution, they retain the right to re-enter

the complaints process if matters of complaint remain outstanding at the end of the process.

17.5 For both conciliation and mediation cases, the same process as outlined at 17.2 will apply after 3 months (or earlier if clear no prospect of resolution)

18 What do you mean by freezing a decision?

If a complaint is about a proposed change to a care plan, a placement or service, the decision may need to be deferred (frozen) until the complaints is resolved. Consideration will be given to deferring a decision that will have a significant effect upon the life of an individual until the complaint has been resolved, having regard to the best interests of the service user.

19 How do I complain about a school?

19.1 The Governing body of a school is responsible for managing complaints from the community about their individual school. Any request for copies of the schools complaints procedure should be made directly through the school. More detailed information around school complaints can be found on the Department for Education (DfE) website www.education.gov.uk

20 Can I complain about school exclusions?

20.1 There is a statutory process that says what parents / pupils can do if they are unhappy with the school's / governor's decision to exclude. Complaints about exclusions cannot be dealt with through this complaints procedure.

21 How do I make a School Admissions Appeal?

21.1 The local authority is responsible for co-ordinating admissions to all maintained schools. Appeals about admissions to schools cannot be dealt with through this complaints procedure. There is a clear appeals process in place briefly outlined below

If refused a place, parents can appeal against the decision. Appeals are heard by an independent Admissions Appeals Panel. The panel will make a decision either to allow the appeal or dismiss it. If parents remain unhappy with the appeal panel's decision, the escalation route would then be to the Local Government and Social Care Ombudsman.

22 Special Educational Needs

22.1 Complaints about some aspects of special educational needs are dealt with by an independent panel: Special Educational Needs & Disability Tribunal (SENDIST) The tribunal will hear cases concerned with decisions to carry out statutory assessments and the contents of statements.

APPENDIX A

Social Care functions that can be complained about:

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 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; and
- Assessment, care management and review.

However this is not an exhaustive list and if you are in any doubt please talk to the Customer Relations Manager for advice as necessary.

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

Part 4 of the Children Act, 1989,

- the decision by 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 is 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); and
- Matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed (section 44).

Where social work information or a social work report has gone to Court, the child or young person can make a complaint about the report, for example its quality or accuracy, distinct and separate to the subsequent actions of the Court. If this complaint is upheld, the local authority should advise the child or

young person what action it proposes to take with regard to the Court action.

With complaints about regulated services under the Care Standards Act 2000 and where services are delivered on the local authority's behalf or through an internal service that is regulated, the local authority will need to satisfy itself that the complaint can be considered under this procedure.

Adoption services

The Regulations also provide that the following adoption-related functions may also 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 related decisions 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 to 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 (sections 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 Adoption Agency Regulations 2005);
 - placement and reviews (part 6 of Adoption Agency Regulations 2005);
 - records (part 7 of Adoption Agency Regulations 2005);
 - contact (part 8 of Adoption Agency Regulations 2005); and
- Parental responsibility prior to adoption abroad (part 3 of Adoptions with a Foreign Element Regulations 2005).

Complaints and Special Guardianship Support Services

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

Children's Social Care - Complaints Procedure

- Assistance to ensure the continuation of the relationship between the child or young person and their Special Guardian or prospective Special Guardian.

APPENDIX B

Who is eligible to complain

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 a parent of his or someone who has parental responsibility for him) 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);
- children leaving care;
- Special Guardians;
- a child or young person (or parent of his) 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; and
- such other person as the local authority consider has sufficient interest in the child or young person's welfare to warrant his representations being considered by them.

Complaints made on behalf of a child

Where a complaint is received from a representative acting on behalf of a child or young person, the 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 views.

The local authority has the discretion to decide whether or not the representative is suitable to act in this capacity or has sufficient interest in the child's welfare. If the Complaints Manager considers that the representative does not have sufficient interest, he should notify the representative in writing, explaining that no further action should be taken. The Complaints Manager should discuss this decision with relevant operational managers as appropriate.

Complaints relating to a child

The local authority is also likely to receive complaints by adults that 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 own complaint being considered by them. In reaching a decision, where possible the local authority may wish to check with the child or young person that he is happy with the person making a complaint.

Anonymous complaints

Anonymous complaints should always be recorded and referred to the Complaints Manager in the same way as other complaints. Anonymous complaints fall outside of the scope of the statutory procedure and it is for the local authority to decide what action it should take. The fact that the complaint is from an anonymous source should not in itself justify a decision not to pursue the matter. Nor should it rule out referral to other procedures as relevant.