

Social Services

Complaints Policy &

Procedure



Cyngor Sir
CEREDIGION
County Council

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1 **Introduction**

- 1.1 On 1st August 2014 Welsh Government introduced the statutory ***Social Services Complaints Procedure (Wales) Regulations 2014*** and the ***Representations Procedure (Wales) Regulations 2014***. Introduction of the Regulations brings the complaints process in line with the Model Concerns and Complaints Policy, which has been adopted in relation to corporate complaints, and the NHS Complaints Procedure *Putting Things Right*.
- 1.2 The Regulations for handling complaints and representations (and in turn this policy) takes into account other legislation governing social services functions such as the Social Services and Well-being (Wales) Act 2014, the Children Act 1989, the Adoption of Children Act 2002, the Community Care Act 2014 and is issued in accordance with Section 7 of the Local Council Social Services Act 1970.
- 1.3 The complaints procedure consists of two stages:
- **Stage 1 – Local Resolution**
 - **Stage 2 – Formal Investigation**

The complainant and/or their representative(s) may refer their complaint to the Public Services Ombudsman for Wales if they remain dissatisfied with the way the Council has dealt with their complaint. More information regarding this will be included in section 14 below.

- 1.4 In accordance with the Regulations referred to above, this Policy outlines the roles of key officers within the Council who have a responsibility to ensure its compliance:
- **Director of Social Services** – The statutory role of Director of Social Services is undertaken by the Corporate Lead Officer for Porth Ceredigion and will be referred to throughout this document as ‘The Director’. The Director will have formal oversight of the complaints process and will report annually on complaints in their Annual Report.
 - **Senior Officer responsible for Complaints** – This responsibility is held by the Corporate Lead Officer for Policy and Performance within the Council. The ‘Senior Officer’ will be accountable for:
 - directing and overseeing the setting up of the procedures;
 - ensuring that there are adequate resources for the procedures;
 - monitoring the implementation of the procedures;
 - directing and overseeing the arrangements for training;
 - directing and overseeing the arrangements for publicity;
 - ensuring that lessons learned are reported and implemented;
 - ensuring that an Annual Report is prepared and published; and,
 - ensuring that the work of the Complaints Officer(s) is effectively supervised.
 - **Complaints Officer** – This responsibility is held by the Council’s Complaints and FOI Manager who will be required to manage the procedures for handling and considering complaints and representations. The ‘Complaints Officer’ will be responsible for:
 - setting up the procedure;

- keeping a written record of complaints made, the procedure followed and the outcome;
- promoting and supporting the local resolution of as many complaints as possible;
- receiving and managing the formal investigation of complaints that cannot be resolved locally;
- maintaining a pool of Independent Investigators and Independent Persons who are appropriately skilled and have had appropriate training for the role;
- selecting Independent Investigators and Independent Persons for individual complaints and representations;
- referring the complainant to any advocacy service available locally;
- monitoring the progress of the investigation and ensuring timescales are met;
- keeping the complainant and key people informed at all stages, offering advice where required, particularly on the response of the local authority;
- evaluating the numbers, types, outcomes and trends of complaints

2 Our Commitment

- 2.1 Ceredigion County Council ('the Council') is committed to dealing effectively with any concerns or complaints in relation to Social Services, and the services it commissions on its behalf. The Council will maintain a citizen-focused approach which focuses on early and pro-active resolution and this document will outline below how this will be done to ensure full compliance with the statutory Regulations.
- 2.2 This policy is separate to the Council's corporate Concerns and Complaints Policy and applies only to complaints about Social Services functions. On occasions, where it is not appropriate to use the Social Services Complaints policy, the corporate Concerns and Complaints Policy can be considered (e.g. if matters relate to basic administrative processes). In normal circumstances it would not be appropriate for a complaint to be investigated under both processes; therefore this policy will have precedence for complaints regarding the functions of Social Services. Complainants will be advised of which policy will be followed at the point of acknowledgement of the complaint.
- 2.3 This document has been developed to ensure that complaints, concerns and representations are resolved quickly and effectively (in accordance with the timescales stipulated in the statutory regulations). The Council is also committed to ensuring all learning opportunities are identified, monitored and where necessary, proportionate measures are taken to put things right.
- 2.4 The Council will normally communicate with the complainant in the same way they have contacted us, unless they request we respond differently or we have good reason not to do so. Where a complainant has contacted the Council by email, implied consent will be assumed and responses will be sent electronically, unless instructed otherwise.

- 2.5 Adherence to the Welsh Language Standards is also a vital consideration for all officers dealing with the public and all communication will need to be sent in either Welsh or English, depending on the preference of the complainant.
- 2.6 This policy should be considered in conjunction with the statutory guidance issued by Welsh Government as referred to in point 1.1 above. Throughout this document, the term 'complaint' refers to a concern, a representation or a complaint.

3 What is a complaint?

- 3.1 A first-time request for a service will not be dealt with as a complaint and, as such, this policy will not apply. We will ensure the matter is addressed as a 'service request' by the relevant team, who will communicate with the service-user directly.
- 3.2 **A complaint is** defined as an expression of dissatisfaction or concern that requires a response. It may be:
- Either written or spoken or made by any other communication method
 - Made by one or more members of the public
 - About a public service provider's action or lack of action, or
 - About the standard of service provided
- 3.3 **A complaint is not:**
- An initial request for a service
 - A formal review or appeal against a decision or determination, the procedure for which is set out in legislation or regulations
 - A means to seek change to legislation or a "properly made" policy decision
 - A means for lobbying groups to seek to promote a cause
- 3.4 There may be reasons why we will not, or cannot consider a complaint under this policy (e.g. if there are court proceedings in relation to those matters, or if the complaint identifies safeguarding issues). If this is the case, the Complaints and FOI Manager will rely on the relevant Service to advise whether there are any proceedings underway to enable them to explain to the complainant why their complaint cannot be considered at this time. The complainant will be invited to contact the Complaints and FOI Manager to re-submit their complaint once proceedings are concluded.
- 3.5 In addition to the above, the **following matters are excluded from consideration** as complaints:
- The complaint relates to a matter that has previously been investigated under this or the former complaints procedure;
 - The complaint is being, or has been, investigated by the Public Services Ombudsman for Wales;

- The matter relates to issues relating to the Freedom of Information Act 2000 (FOIA) or the General Data Protection Regulation 2018 (GDPR);
- A complaint made orally, which has been resolved to the satisfaction of the person making the complaint by the end of the working day following the day on which the complaint was made.

4 Who can complain?

This document applies to Children and Adult's Services and as such, any member of the public, including a child, who has received or was entitled to receive, a service from Social Services can make a complaint.

A representative can make a complaint on a person's behalf where that person:

- is a child (see point 3.3 below); or
- has requested the representative to act; or
- lacks capacity within the meaning of the Mental Capacity Act 2005; or
- has died

Any representative making a complaint on a person's behalf must be considered by Social Services to have sufficient interest in that person's welfare and be a suitable person.

A complaint may be brought forward in respect of a child (i.e. a person under the age of 18):

- a) By a child either being looked after by Social Services, or not being looked after by them but is in need
- b) By a parent of such a child
- c) By a person with parental responsibility for such a child
- d) By a local Council foster carer
- e) Where the Council considers that the complainant has a sufficient interest in a child's welfare to warrant it considering their representations

If a person is unable to make a complaint themselves, they can authorise someone to make a complaint on their behalf, or the Council can assist with sourcing an advocate to help them – in accordance with Part 10, Code of Practice of the Social Services and Well-being (Wales) Act 2014. Arrangements for advocacy will be discussed between Complaints Manager and Service Manager once the need has been identified and more information regarding service providers is available in the information leaflet for service users.

5 How to complain

Complaints can be made by service-users and/or their representatives in the following ways:

Via our website: www.ceredigion.gov.uk

By contacting the Complaints and FOI Team by telephone: 01545 574151

By e-mailing our Complaints and FOI Team: complaints@ceredigion.gov.uk

In writing, directly to the Complaints and FOI Manager:

Complaints and FOI Manager
Canolfan Rheidol
Rhodfa Padarn
Aberystwyth
SY23 3UE

We aim to have information regarding our complaints procedure available at all of our service outlets. Copies of this policy and the complaint information leaflet can be made available in other formats if required.

6 Compliments

Like complaints, compliments are an important source of service-user feedback that tell us where we are doing things well. All compliments should be forwarded to the Complaints Team where they will be collated and reported on in the same way as complaints. Where indicated, written acknowledgements will be sent thanking the service-user for going to the effort of bringing the good practice they have experienced to our attention.

All compliments should be shared with the Service responsible for the positive feedback and where possible, good practice should be shared wider in the Council.

7 Receiving a complaint

The Social Services Complaints Procedure will usually only consider complaints which are made within **12 months** of the incident which triggers the complaint. The Complaints and FOI Manager will provide the complainant with an opportunity to state why they have been unable to make their complaint sooner (if outside of the 12 months) and a decision will be taken with the Service Manager as to whether discretion can be applied, which will allow the complaint to be considered. Due consideration needs to be given as to whether there is sufficient information to enable an investigation to take place.

Where there are 'concurrent investigations' in progress (e.g. court proceedings, police or safeguarding investigations, or other legal proceedings) it will not be possible to make a complaint. However, service-users will be invited to re-submit their complaint once those matters are concluded (providing this is within **six months** of the conclusion of the 'concurrent matter'). This will be agreed in advance between the Service Manager, Complaints and FOI Service and the Safeguarding service.

Complaints about Social Care provision will be accepted orally or in writing (including electronically or in person). When complaints are made orally, the Complaints Team will firstly record their understanding of the complaint and ask the complainant to confirm that it is an accurate record of their concerns. There may be occasions however that require immediate escalation or consideration by the service and if this is the case, the complainant will be advised accordingly.

Complaints received by Social Services directly (either via staff who have contact with the service user or via their service managers) should be passed to the Complaints Team immediately to enable the necessary recording and acknowledgement processes to be undertaken within the statutory timescales (**2 working days**).

Whilst the recommended approach in all cases should be to take a resolution-focused attitude towards all complaints, early decision-making regarding the management of the case is crucial. Service Managers will be expected to liaise with the Complaints Team as soon as the complaint is received to agree how the complaint will be managed.

Anonymous complaints should be recorded in the same way as all other complaints and the fact that it is anonymous does not justify a decision not to pursue the matter. The action taken to investigate such complaints should be reasonable, proportionate and, in instances whereby concerns about Child or Adult Safeguarding have been raised, the appropriate referral(s) should be made.

The Regulations stipulate that the Council must acknowledge receipt of the complaint **no later than 2 working days after the date of receipt** and it is the responsibility of all Social Services Managers and staff to ensure that any complaints they receive directly from service-users are sent **immediately** to the Complaints Team via the central mailbox: complaints@ceredigion.gov.uk.

Social Services staff may signpost service-users to contact the Complaints Team, or, if there is a possibility that the matter can be fully resolved informally (i.e. without engaging in the complaints process) then this can be undertaken with the agreement of the complainant – in the interests of early resolution. As a matter of good practice, wherever possible, staff should notify the Complaints Team of any potential complaints or matters they have managed to resolve informally.

Following receipt of a new complaint the Complaints Team will liaise with the Service Manager immediately to confirm how matters will be addressed: whether immediate contact and resolution is a possibility (in lower level complaints) or to obtain the Service Manager's availability for meeting/telephone conference.

8 Stage 1 - Local Resolution

Where possible, resolution of a complaint is most successful if matters are dealt with immediately, rather than try to sort things out later. Ideally, complainants should raise their concerns with the person they are dealing with, however they can be signposted to the Complaints Team if they wish to speak to somebody not immediately connected with the service.

If it is not possible to resolve the matter immediately, the Service Manager must notify the Complaints Team so that the complaint can be recorded and acknowledged in line with the prescribed timescale of **two working days**.

The acknowledgement letter will include details of the Service Manager's availability for a telephone discussion or face-to-face meeting with the complainant, therefore this should be supplied as early as possible after notification of the complaint and, unless there are exceptional circumstances, no later than **one full working day** after the complaint has been shared with the Service Manager.

The face-to-face meeting or telephone discussion must take place within **ten working days** of the acknowledgement letter/e-mail. The Complaints Team will then liaise with the complainant to make the necessary arrangements and, where possible, comply with the complainant's preference regarding the format of the discussion with the Service Manager (i.e. in person or by telephone). Each case should be considered individually and should take into account the views of the complainant where possible.

The purpose of the meeting/telephone call is to attempt to resolve the complaint as quickly as possible through discussion and negotiation and, if applicable, agree a course of action which will resolve the complaint.

The Complaints Team will be available to sit in with meetings or discussions to provide advice in relation to the complaints process. The Complaints Team will also provide administrative support to record the meeting/discussion and distribute this to all attendees to ensure that all parties are in agreement with the accuracy of the records made of the event.

The Service Manager must issue a response to the complainant within a further **five working days** which will include specific information regarding how they can escalate their complaint to Stage 2 if they are not satisfied with the actions taken or the outcome of Stage 1. This involves the complainant contacting the Complaints and FOI Manager outlining the reasons why they want independent consideration of their complaint at Stage 2.

There is no allowance within the statutory Regulations for local resolution complaints that exceed the timescales stipulated above. However, if the Service Manager envisages any problem with meeting the timescales set out above, they must contact the Complaints Manager immediately to explain the position.

9 **Stage 2 – Formal Consideration**

If a complaint has been considered at the first stage of the complaints process and the complainant remains aggrieved with the outcome, they may ask for their complaint to be investigated by a person who is independent of the Council. However, whilst it is recommended that a complainant tries to resolve their complaint informally at first, they do have the right to ask for a complaint to be considered at this stage from the outset. The Complaints Manager will discuss the circumstances of such cases with the relevant Service Manager upon receipt of the complaint.

The Complaints Team will confirm escalation of the complaint to Stage 2 with the Service Manager before identifying a suitable Independent Investigating Officer (IIO) to conduct the investigation. The IIO must not be an employee of the Council or have any connection (family or otherwise) with officers involved in the complaint. Every effort will be made to source an IIO with the relevant knowledge and background of the service area that is the subject of the complaint and any relating processes and legislation.

In the case of a complaint concerning the delivery of services for a child, an Independent Person (IP) must also be appointed to oversee how the case is investigated and how the Council responds to the complaints process and outcomes; including how it proposes to fulfil any recommendations or actions identified. Actions taken by the Council should be undertaken in accordance with the Children Act 1989 and other relevant policies or legislation as indicated in the case.

The IP can be an employee of the Council but must be independent to the service that is the subject of the complaint and will take part in the investigation and ensure that the procedures are followed as set out in the relevant legislation.

The Complaints Manager will source a suitable IIO and IP and all administrative functions associated with the process will be fulfilled by the Complaints Team (e.g. the contract letters, sharing contact information, notifying the complainants of the details of the IIO and IP – if applicable, file sharing etc.).

The IIO and IP (if applicable) are required to complete their investigation and a full written response issued to the complainant within **25 working days** of the agreed '**start date**'.

The '**start date**' is the point at which the IIO and IP (if applicable) have met with the complainant, taken a full account of the complaint and any desired outcomes, and confirmed the scope of the investigation in writing with both the complainant and the Council. At this point, the formal investigation stage will commence.

The IIO and IP (if applicable) will liaise with the Complaints Team to identify any key staff they will need to interview and provide information about the scope of documentation they will need to view as part of their investigation.

10 Outcomes of investigations

Once all the necessary investigations have been undertaken, the IIO will produce a report of their findings which will be shared with the complainant and principal parties involved in the complaint. Where applicable, the IP will also provide a report to confirm whether or not procedures were followed during the investigation stage.

The Director of Social Services must then provide the complainant with a formal response to their complaint which will include an explanation of the findings of the investigation, a copy of the investigation report and the details of any remedial action that may be required.

If it is found that the Service has not delivered services as they should have, or if there are any shortcomings identified in the way that the Council dealt with the complainant, an apology will be provided. Every effort will be made to ensure the same failings are not repeated in the future and the complainant should be adequately reassured about this.

If there are actions required on the part of the Council to put things right, an action plan will be formulated to address the shortcomings and this will be maintained by the Service responsible. The Complaints Team will monitor progress according to the actions recorded and the timescales set.

The formal response will include information about the complainant's right to seek consideration from the Public Services Ombudsman for Wales if they remain dissatisfied.

In exceptional circumstances, it may not be possible to comply with the 25-working day timescale prescribed in the statutory Regulations. All instances of delay due to exceptional circumstances must be agreed by the Director of Social Services and a record of the Director's decision must be made and retained.

The Council must record each occasion where exceptional circumstances have applied, the reason for the exceptional circumstances and that date that a full response was issued. Exceptions and exceptional circumstances are a matter for the Director of Social Services' professional judgement and all such occasions will be recorded in the Annual Report.

11 Withdrawal of complaint

The complainant can decide at any time not to pursue their complaint further. Where this happens, the Complaints Manager will need to be satisfied that the complaint has not been withdrawn through fear of adverse consequences and should decide if the matter has been satisfactorily concluded.

The Complaints Manager will liaise with the relevant Service Manager to consider whether there are matters that should continue to be investigated or addressed via our internal processes. In the event that agreement cannot be reached regarding the merit of proceeding with the investigation, the Director for Social Services should be consulted for a decision.

12 Concurrent investigations

Where matters are subject to a concurrent consideration the Council will **not consider or further consider** a complaint under this process if such consideration would prejudice the conduct of certain proceedings or investigations. Those matters include:

- Where the complainant indicates in writing that they are taking or intend to start legal proceedings;
- The Council is considering legal proceedings, i.e. care proceedings or Court of Protection proceedings;
- The Council is taking or proposing to take disciplinary proceedings against a member of staff;
- The Council is aware that a prosecuting Authority i.e. the police or the Care and Social Service Inspectorate for Wales is investigating with a view to a criminal prosecution.

Where the Council decides not to consider the complaint at that stage it must notify the complainant in writing. The complainant will be invited to re-submit their complaint no later than six months after completion of the concurrent consideration.

13 Complaints involving more than one body

If a complaint relates to more than one public body (e.g. if the complaint is about both the Council and the Health Board or a School Governing Body) we will usually work with the other body to decide who should take a lead in dealing with the matter. In such cases, the name of the person responsible for communicating with the complainant will be provided. The complainant will also be informed which policy will be followed so that they are clear on the arrangements in place to investigate and respond to their complaint.

If the complaint is about a body working on the Council's behalf (e.g. agency care workers, private residential homes) it is expected that the complaint will be directed to the body responsible for the provision of the service and their own complaints process will be exhausted.

There may be exceptional cases whereby there is merit in this policy being followed, however this is only on agreement with the Complaints Manager and the Manager of the Commissioning Team, along with input from the service provider. Alternatively, the matter can be considered under the Service's quality assurance protocols with the overriding emphasis remaining on early resolution.

14 **Public Services Ombudsman for Wales**

The Ombudsman expects complainants to bring concerns to our attention first and to give us an opportunity to put things right. If the Council does not succeed in resolving a complaint, the complainant has the right to contact the Public Services Ombudsman for Wales. The Ombudsman is independent of all government bodies and can look into complaints where the complainant or service user:

- (i) has been treated unfairly or received a bad service through some failure on the part of the body providing it
- (ii) has been disadvantaged personally by a service failure or has been treated unfairly.

Details for contacting the Public Services Ombudsman are as follows:

By e-mail: ask@ombudsman.wales

Via the Ombudsman's website: www.ombudsman.wales

In writing, or by telephone, at:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed CF35 5LJ

Tel: 0300 790 0203

15 **Learning from complaints**

Complaints should be considered as a mechanism for service-user feedback that helps the Council to learn and to understand the needs of its service users. The information obtained from complaints should inform service developments through the commissioning process and identify areas where service improvements can be made.

Following the completion complaints investigations (at Stages 1 or 2) an action plan containing any recommendations or agreed actions should be developed. In most circumstances this plan will be shared with the complainant or their representative with regular updates on progress where this is requested.

16 **Monitoring and reporting arrangements**

All complaints received will be recorded and information will be stored in relation to several aspects of each case (e.g. the number of complaints, complaint outcomes, the number of cases exceeding the statutory timescales etc.).

On a quarterly basis information on complaints will be provided to each Head of Service/Service Manager. They will be required to report any recurring themes with identified actions to make improvements, with timescales, to the Complaints Team. These will be monitored to ensure agreed actions are implemented in a timely way.

An annual report on the handling and consideration of complaints will be produced for inclusion with the Director of Social Services' annual report. This information will also be included in the Council's overall Complaints, Compliments and FOI Report on an annual basis where themes and trends will be explored further.

Additional reports can be provided by the Complaints Team upon request providing there is sufficient notice given at the time of request (e.g. a minimum of ten working days).

17 Deferring or freezing decisions

If the complaint is about a proposed change to a care plan, a placement or a service, the Service may need to defer or freeze the decision until the complaint is resolved. The Service should always consider deferring a decision that will have a significant effect on the life of a service-user until their complaint has been resolved, taking into account the welfare and safety of the person concerned.

The decision to defer should follow a careful assessment of the needs of the individual, including the different risks that may arise from deferring or not deferring. The decision should normally be made after detailed discussion between the Complaints Manager and the Service Manager responsible for the assessment. Decisions should be made on a case-by-case basis, but there should be a general presumption in favour of freezing a decision, unless, there is a good reason against it – for example, if leaving a child where they are would put them at risk. Where need be, the Director of Social Services should make the final decision.

18 Unacceptable Actions by complainant

The most essential way to successfully resolve a complaint relies on the engagement and co-operation of the complainant, acting in their best interests and following the procedures set out in this policy. Staff can access training and advice on how to deal with people who are feeling angry or upset, or if they are having difficulty in getting their opinions heard. It may be appropriate to explore the options available to support the complainant with an advocacy service (as outlined above in Section 4). Advocacy can be arranged via collaboration between with the Service Manager and the Complaints Manager, and by liaising with the complainant.

The actions of complainants may occasionally result in unreasonable demands on an organisation or unacceptable behaviour towards staff. The Council is required to exercise a certain level of resilience in difficult situations; however in exceptional circumstances consideration can be given to invoking the Unacceptable Actions by Service Users Policy.

This should only be done in instances where there is sufficient evidence to demonstrate the unacceptable behaviour or unreasonable persistence and records should also be available which supports that the decision was made by a collection of relevant officers (as outlined in the Unacceptable Actions by Service-Users Policy).