



**CITY OF CARDIFF COUNCIL**

**SOCIAL SERVICES COMPLAINTS POLICY & PROCEDURE**

## Document Control

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<b>Author</b>	Kim Brown
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## Revision History

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	New policy	0	Reflects new guidance
07.08.15	Review	1	General amendments

## **INTRODUCTION**

- 1.1 The City of Cardiff Council is committed to dealing effectively with any concerns or complaints about Social Services. In this document, the term 'complaint' refers to a concern, a representation or a complaint. Social Services refers to City of Cardiff services provided within children's and adults' social care.
- 1.2 We aim to clarify any issues about which service users, citizens or complainants are not sure. We will apologise if we get something wrong, and where possible we will try to put things right. We will also set in place a process so that we learn from mistakes and use the information we gain to improve our service.
- 1.3 This policy has been established in accordance with The Social Services Complaints Procedure (Wales) Regulations 2014 and The Representations Procedure (Wales) Regulations 2014. This policy takes effect from 1<sup>st</sup> August 2014 as prescribed.
- 1.4 The above regulations are made under the Social Services & Wellbeing (Wales) Act 2014. They bring the complaints handling process for Social Services in line with the Welsh Government "Model Concerns and Complaints Policy and Guidance", and the NHS Complaints Procedure "Putting Things Right".
- 1.5 This Policy also encompasses the requirements of the Children Act 1989, the Adoption of Children Act 2002, and the Community Care Act 2014 and is issued in accordance with Section 7 of the Local Council Social Services Act 1970.

## **2. OUR COMMITMENT**

- 2.1 We aim to provide high quality services to eligible residents of Cardiff.
- 2.2 There will be times when people using or wanting to use social care services will want to make comments or complaints and provide feedback about the service they receive. When we receive a complaint, comment or feedback, we aim to respond in the way we explain below.
- 2.3 We have developed our Social Services Complaints Policy to ensure we resolve complaints quickly and effectively.
- 2.4 We recognise that a robust complaints framework can empower service users. Outcomes from complaints investigations will be used by Social Services to ensure that lessons are learned where things have gone wrong and in order that continuous improvement can be made to service delivery.

- 2.5 We will deal with complaints in an open and honest way.
- 2.6 We will make sure that citizens' ongoing contact with the service following resolution of a complaint, do not suffer detriment because they have expressed a concern, given feedback or made a complaint.
- 2.7 We will initially 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. However, we will always ask whether complainants prefer a different medium of contact. We will always ensure that the outcome of contact is followed up in writing. Where a complainant has contacted us by email, we will assume an implied consent to respond electronically unless we are instructed otherwise.

### **3. SERVICE REQUESTS**

- 3.1 If a person is approaching the Council for a service for the first time, this will be classified as a service request. In such cases this policy will not apply.

### **4. WHEN TO USE THIS POLICY: WHO CAN COMPLAIN?**

- 4.1 This policy applies to both adults' and children's social care. A person may be eligible to make a complaint about Social Services under the policy, in the following circumstances:
  - 4.1.1 If they have received (or were entitled to receive) a service from Social Services (e.g. a care leaver).
  - 4.1.2 If they have suffered due to the inappropriate actions of Social Services.
  - 4.1.3 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.
  - 4.1.4 A complaint may be brought forward in respect of an adult who lacks capacity, providing the individual making the complaint is acting in the best interests of the person receiving services (who lacks capacity), or has lasting power of attorney to act on their behalf.

- 4.2 If a person is unable to make a complaint or representation themselves, they can authorise someone to make a complaint on their behalf.
- 4.3 Children in need, looked after children and care leavers and those without capacity or with people who can act in their best interests, have a right to receive assistance from an independent advocate to assist them when making a complaint. In these circumstances, we will provide an advocate if asked to do so.
- 4.4 A representative may make a complaint on another person's behalf where that person:
- Is a child; or
- Has requested the representative to act for them; or
  - Lacks capacity to make their own complaint; or
  - Has died
- 4.5 Their expressed permission must be considered to have sufficient interest in that person's welfare and be a suitable person. The Complaints Officer will determine the eligibility of a complainant in such circumstances.
- 4.6 If an individual intends expressing a concern on behalf of another person who satisfies the criteria set out in paragraph 4.1, we may require confirmation of their agreement to that person acting on their behalf. Should that person not be eligible to make a complaint under the terms of this policy, they may still be able to make a complaint under our Corporate Comments, Complaints and Compliments procedure (document 1.CM.192 on CIS).
- 4.7 Normally, we will only be able to look at complaints that are made up to 12 months after the date the matter which is the subject of the complaint occurred, or came to the notice of the complainant.
- 4.8 In exceptional circumstances the Council may be able to look at concerns which are brought to our attention later than this. However, the Council will need to be satisfied that there are good reasons for the complaint not being made within these timescales, and that it will be possible to investigate the complaint effectively and fairly.
- 4.9 There may be reasons why the Council will not, or cannot consider a complaint (e.g. if there are court proceedings in relation to those matters, or if the complaint identifies a safeguarding issue). If this is the case, the Complaints Officer will explain why the complaints cannot be considered and confirm the decision in writing.
- 4.10 Furthermore, a complaint cannot be made under this policy where:
- 4.10.1 The complaint relates to a matter that has previously been investigated under this or the former Complaints Procedure;

- 4.10.2 The complaint is being or has been investigated by the Public Services Ombudsman for Wales;
- 4.10.3 The matter relates to a Freedom of Information or Data Protection issue;
- 4.10.4 The complaint has previously been made orally, and resolved to the satisfaction of the person making complaint, by the end of the working day following the day on which the complaint was made.

## 5. HOW TO COMPLAIN

- 5.1 Complaints regarding children's social care can be made in any of the ways below:
  - 5.1.1 By contacting the Complaints Team by telephone on 029 2087 3663
  - 5.1.2 Via our website [www.cardiff.gov.uk](http://www.cardiff.gov.uk)
  - 5.1.3 By e-mail at [cscomplaints@cardiff.gov.uk](mailto:cscomplaints@cardiff.gov.uk)
  - 5.1.4 In writing, at the following address:

The Complaints Team  
Room 335 County Hall  
Atlantic Wharf, Cardiff  
CF10 4UW
- 5.2 Complaints regarding adult social care can be made in any of the ways below:
  - 5.2.1 By contacting the Complaints Team by telephone on 029 2087 3891
  - 5.2.2 Via our website [www.cardiff.gov.uk](http://www.cardiff.gov.uk)
  - 5.2.3 In writing, at the following address:

The Complaints Team  
Room 364 County Hall  
Atlantic Wharf, Cardiff  
CF10 4UW
- 5.3 We aim to have information available at all of our service outlets and public areas and also at appropriate locations in the community (e.g. libraries and Housing Offices).
- 5.4 Copies of this policy and the complaint form can be made available in other formats if required (e.g. audio, large print etc.).

## STAGE 1 OF THE COMPLAINTS PROCESS – INFORMAL RESOLUTION

- 5.5 If possible, we believe it is best to deal with things straight away rather than try to sort them out later. Ideally, complainants should raise their complaint with the person they are dealing with. He or she will try to resolve it there and then.
- 5.6 If we are unable to resolve a complaint immediately, we will acknowledge the complaint within 2 working days of receipt of the complaint and tell the complainant whom we have asked to look into the matter. Details of our complaints procedure will be enclosed with the acknowledgement.
- 5.7 We will set out our understanding of the complainant's concerns and ask them to confirm that we have got it right. We will also ask them to tell us what outcome they are hoping for.
- 5.8 We will offer the complainant a discussion with a Social Services Officer or the Complaints Officer (as appropriate). Should such a discussion be required, arrangements will be made for this to take place within 10 working days of the date of acknowledgement.
- 5.9 In the case of a representation, arrangements will be made for any required discussion to take place within 10 working days of the Local Resolution stage 'start date' set out in the Regulations. The Local Resolution stage 'start date' is governed by (a) the date of acknowledgment; (b) the date on which an advocate is appointed; or (c) where a representation is made by 'other persons', the date on which the local authority decides that the person has sufficient interest to warrant consideration; whichever is later. This timescale may only be extended in exceptional circumstances with the agreement of the complainant.
- 5.10 When the complaint has been resolved, we will provide a substantive response to the complainant in writing within 5 working days of the date of resolution.
- 5.11 If it is not possible to provide the complainant with a response within the timescales set out in 6.4 to 6.6 above, we will contact the complainant to discuss the reason for the delay.
- 5.12 Occasionally, we might suggest mediation or another method to try to resolve disputes. It is hoped that all concerns can be resolved by Social Services without a need for further action.
- 5.13 Complainants have 14 days to respond if they are not satisfied with the response to their complaint.

## 6. STAGE 2 OF THE COMPLAINTS PROCESS – FORMAL COMPLAINTS

- 6.1 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 the complaint to be investigated by a person who is independent of the Council. In such circumstances we will commission someone from outside the Council to conduct the investigation. This person is referred to as an Independent Investigator.
- 6.2 The Independent Investigator will interview all parties and produce a report of their findings which will be provided to the person making the complaint and principal parties to the complaint. As a consequence of this report the Director of Social Services will provide the complainant with a written response to the report which will include their summary and details of any action to be taken.
- 6.3 In the case of a child, at this stage an Independent Person is also appointed to take part in the formal consideration and any discussion about the action the Council should take (in accordance with Children's Act 1989). The Independent Person's role is to oversee the handling of the complaint. This person may be an employee of the Council but must not be associated with Social Services in any way.
- 6.4 We will compile a formal written record of the complaint (as we understand it) within 5 working days of the date it is received.
- 6.5 Before the investigation starts, the complainant will be required to confirm that our understanding of the issues to be investigated is comprehensive and correct. They will also be asked to specify (or confirm) their required outcomes from the investigation. If these issues have not been clearly set out in our summary of the complaint, the complainant will need to speak to the Complaints Officer to clarify matters.
- 6.6 The date on which the content of the complaint is agreed by both the Council and the complainant will be the start date for the complaint.
- 6.7 A response to a Stage 2 complaint should be issued within 25 working days of the start date. If this is not possible, we will inform the complainant and explain why, giving an indication when they can expect to receive a response. In any event, a response to a complaint must be provided within 6 months.
- 6.8 Complainants have 14 days to respond if they are not satisfied with the response to their complaint.
- 6.9 Whilst it is recommended that a complainant tries to resolve their complaint informally, at first, they have the right to ask for a complaint to be considered at this stage from the outset.



## **7. OUTCOMES OF INVESTIGATION**

- 7.1 Following the investigation of a complaint, we will let the complainant know the outcome of the investigation using their preferred form of communication (e.g. by letter or email). If necessary, we will produce a longer report. We will explain how and why we came to our conclusion.
- 7.2 If we find that we got it wrong, we will explain what errors were made and how it happened.
- 7.3 If we find there is a fault in our system or the way we do things, we will explain what it is and how we plan to change to prevent this from happening again. If we got it wrong, we will always apologise.

## **8. PUTTING THINGS RIGHT – WHEN WE GET THINGS WRONG**

- 8.1 If we did not provide a service that should have been given, we will aim to provide it if that is possible. If we did not do something well, we will aim to put it right. If a person has lost out as result of a mistake on our part we will try to put them back in the position they would have been in if we got it right.
- 8.2 If a person had to pay for a service themselves, when they should have received that service from us, or if they were entitled to funding they did not receive, we will usually aim to make good what they have lost.

## **9. LEARNING LESSONS**

- 9.1 We take complaints seriously and try to learn from any mistakes we have made. Our senior management teams consider a periodic summary of all complaints. Details of lessons learned from complaints are also included in an Annual Report.
- 9.2 Where there is a need for change, we will develop an action plan setting out what we will do, who will do it and when we plan to do it by. If it is appropriate, we will let complainants know when the changes we have promised to make have been implemented.

## **10. CONFIDENTIALITY**

- 10.1 All complaint information is confidential and subject to the Data Protection Act. Written information on complaints is kept separately from care management records.
- 10.2 Requesting an investigation gives permission for the Investigating Officer to look at the personal data contained in care management records.
- 10.3 All Council staff, including those commissioned for a specific piece of work are bound by the rules of confidentiality.

10.4 Information gathered and processed during the complaints will be the handled in accordance with the Council's Data Protection Policy. It will only be shared with parties subject to, directly involved with or who have a professional interest in the outcome of the complaint.

## **11. CONCURRENT INVESTIGATIONS**

11.1 Where other investigations are in progress / under consideration in relation to issues raised by the complainant (e.g. court matters, police investigation, disciplinary or other legal proceedings), no investigation will be undertaken in line with this Policy.

11.2 No complaint investigation will be made under the policy where it is considered that such action may compromise any adult or child protection (or safeguarding) process, and the complainant will be informed if the complaint is being treated as a safeguarding issue.

11.3 Should this occur, we will notify the complainant in writing and invite them to re-submit their complaint when those other matters are concluded.

## **12. WHAT IF THERE IS MORE THAN ONE PUBLIC BODY INVOLVED?**

12.1 If a complaint covers more than one body (e.g. if the complaint is about both the Council and the Health Board) we will usually work with them 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.

12.2 If the complaint is about a body working on our behalf (e.g. agency care workers, private residential homes) the matter may be raised informally with, and dealt by, that body first. However, if the complainant wants to complain formally to the Council where the Council has commissioned this service, we will look into this and respond.

## **13. DEFERRING OR FREEZING DECISIONS**

13.1 If a complaint is about a proposed change to a care plan, a placement or a service, the Council may consider deferring or freezing the decision until the complaint is resolved.

13.2 Decisions to defer will follow careful assessment of the needs of the individual and will normally be made after detailed discussion between the Complaints Officer and Team Manager.

13.3 Should it be required, the decision of the Director of Social Services on such matters will be final.

## 14. PUBLIC SERVICES OMBUDSMAN FOR WALES

14.1 If we do not succeed in resolving a complaint, the complainant may refer the matter to 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 failures on the part of the body providing it

(ii) has been disadvantaged personally by a service failure or has been treated unfairly.

14.2 The Ombudsman expects complainants to bring concerns to our attention first and to give us an opportunity to put things right.

14.3 The Ombudsman can be contacted in the following way:

- By e-mail: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk)

- Via the Ombudsman website: [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

- In writing, or by telephone, at:

Public Services Ombudsman for Wales  
1 Ffordd yr Hen Gae  
Pencoed,  
CF35 5LJ  
Tel: 0300 790 0203

14.4 There are also other organisations that consider complaints. For example, the Welsh Language Commissioner can deal with issues about services in Welsh. We can provide advice about such organisations.

## 15. WHAT IF A COMPLAINANT NEEDS HELP

15.1 Our staff will aim to help complainants to make their concerns known to us. If extra assistance is needed, we will try to put complainants in touch with someone who can help.

### 15.2 Older People

15.2.1 Age Cymru provides advice for all older people in Wales. They can be contacted by any of the ways below:

- Using their Online Form:

<http://www.ageuk.org.uk/cymru/contact-us/>

- Via the Age Cymru website; <http://www.ageuk.org.uk/cymru/>

- In writing, or by telephone, at:

Age Cymru  
Ty John Pathy  
13/14 Neptune Court  
Vanguard Way  
Cardiff  
CF24 5PJ  
Tel: 0300 790 0230

### 15.3 Children & Young People

15.3.1 This policy includes complaints made by people under the age of 18. If a young person wishing to complain needs help, they can speak to someone on the Meic Helpline (phone 0808 802 3456, [www.meiccymru.org](http://www.meiccymru.org)).

15.3.2 They can also contact the Children's Commissioner for Wales:

- By email, at: [post@childcomwales.org.uk](mailto:post@childcomwales.org.uk)

- In writing, or by telephone, as shown below:

South Wales Office:  
Oystermouth House  
Phoenix Way  
Llansamlet  
Swansea  
SA7 9FS  
Tel: 01792 765600

North Wales Office  
Penrhos Manor  
Oak Drive  
Colwyn Bay  
Colwyn  
LL29 7YW  
Tel: 01492 523333

15.3.3 Advocacy services for children and young people can also be provided by NYAS, who can be contacted in the following ways:

- By email, at: [elly.jones@nyas.net](mailto:elly.jones@nyas.net)

- In writing, or by telephone, as shown below:

NYAS  
Dogfield Street  
Cardiff  
Tel: 029 2066 8956

## 16. WHAT WE EXPECT FROM COMPLAINANTS

16.1 In times of trouble or distress, some people may act out of character. There may have been upsetting or distressing circumstances leading up to a concern or a complaint. We do not view behaviour as unacceptable just because someone is forceful or determined.

- 16.2 We believe that all complainants have the right to be heard, understood and respected. However, we expect complainants to be polite and courteous in their dealings with us. We will not tolerate aggressive or abusive behaviour, unreasonable demands or unreasonable persistence.
- 16.3 We have a separate policy to manage situations where we find that someone's actions are unacceptable. Details of our Unacceptable Action by Customers Policy can be found at on CIS (1.CM.069).