

# CHILDREN'S SOCIAL CARE COMPLAINTS PROCEDURES

Author:	Barry Kirkman: Partnership Support Officer, Strategy, Engagement and Commissioning
Owner/Enquiries:	Services to People
Date of Issue:	July 2011
Review:	July 2015 or, any change to Legislation
Authorisation/Consultation:	SMT Children's Rights Service Social Care senior management team Performance Monitoring and Business Planning Group
Audience:	Schools Support Service All children's social care practitioners Children's Rights Service Disability Partnership Service, incl SEN All other qualifying persons
Links to legislation/policy:	The Children Act 1989 Representations Procedure (England) Regulations 2006 'Getting the Best from Complaints – Social Care Complaints and Representations for Children, Young People and Others' Adoption and Children Act 2002 Adoption Support Services Regulations 2005 Adoption Agency Regulations 2005 Adoptions with a Foreign Element Regulations 2005 Special Guardianship Regulations 2005 Advocacy Services Representations Procedure (Children) (Amendment) Regulations 2004. The Children Act 1989 Guidance and Regulations Volume 3: Planning Transition to Adulthood for Care Leavers
Equality Impact Assessment	This procedure is a local interpretation of national policy and a Regulatory Impact Assessment was completed at the point of enactment of the associated legislation. On this basis an Equality Impact Assessment is not required.

<b>Contents</b>	<b>Page</b>
<b>1. OVERVIEW</b>	<b>4</b>
Valuing Diversity	4
<b>2. THE COMPLAINTS RESOLUTION SERVICE</b>	<b>5</b>
<b>3. DEFINING REPRESENTATIONS AND COMPLAINTS</b>	<b>5</b>
Representations	5
Complaints	5
What may be complained about	5
<b>4. WHEN THE COMPLAINTS PROCEDURE DOES NOT APPLY</b>	<b>7</b>
Anonymous Complaints	8
Who may make representations including complaints	8
Time limits for making complaints	8
Provision of Advocacy and Support	9
Care Leavers	9
Withdrawing a complaint	10
<b>5. THE COMPLAINTS PROCEDURE</b>	<b>10</b>
<b>Stage 1 - Local Resolution</b>	<b>10</b>
Deferring (freezing) decisions	11
Timescales for stage 1	11
<b>Stage 2 - Investigation and Adjudication</b>	<b>11</b>
The Investigating process	12
The Adjudication process	13
Timescales for stage 2	14
Early referral to Local Government Ombudsman	14
<b>Stage 3 – Independent Review Panel</b>	<b>15</b>
Timescales for stage 3	17
<b>6. DEFINITION OF ROLES</b>	<b>18</b>
Complaint Resolution Manager	18
Independent Investigating Officer	18
Independent Person	19
Advocates in the complaint procedure	19
Adjudication Officer	20
Review Panel	20
Independent Chair of Review Panel	20
Clerk to the Panel	21

Local Authority representative on Panel	21
<b>7. OTHER MATTERS</b>	<b>22</b>
Concurrent procedures	22
Complaints about Regulated Providers	22
Safeguarding children	23
Unacceptable behaviour /unreasonably persistent and vexatious complainants	23
Monitoring arrangements	23
Care Leavers	23
<b>8. USEFUL CONTACTS NUMBERS</b>	<b>24</b>
Local Government Ombudsman	
OfSTED	
Complaints Resolution Service	
<b>APPENDICES</b>	<b>25</b>
Stage 1 Flowchart	25
Stage 2 Flowchart	26
Stage 3 Flowchart	27

# CHILDRENS' SOCIAL CARE COMPLAINTS

## 1. OVERVIEW

This procedural document has been produced to assist children, young people, parents, carers and others with Parental Responsibility, and Local Authority staff with regards to representations (including complaints) made about particular care services provided by Stockport Metropolitan Borough Council. It describes the processes by which the Services to People Directorate works to resolve complaints and seeks to ensure that young people, or others who make a complaint on their behalf have their concerns resolved swiftly and where possible, by staff immediately concerned in service delivery.

The statutory basis for the procedure is: *The Children Act 1989 Representations Procedure (England) Regulations 2006*. In line with other Local Authorities procedures this document reflects guidance issued by the Department for Children, Schools and Families (DCSF) - *'Getting the Best from Complaints – Social Care Complaints and Representations for Children, Young People and Others'*.

The Children Act 1989 gives the Secretary of State powers to make regulations about handling representations (including complaints) relating to services for support, care and protection of children. Regulations relating to handling of representations have been in force since 1991. However, the Children Act has since been amended, in particular section 117 of the Adoption and Children Act 2002 which amends sections 24D and 26 of the Children Act 1989 by giving power to make Regulations which:

- Allow for an initial resolution stage without involving an independent person;
- Extend the scope or application of the Children Act 1989 procedure to services provided under Part IV (Care and Supervision) and Part V (Protection of Children) of that Act, as may be specified in Regulations;
- Impose time limits for the making of representations

### ***Valuing Diversity***

Stockport Council respects and values diversity in all its service users and employees. The aim of the Council is for its services, facilities and resources to be accessible and of use to everyone regardless of gender, age, ethnic origin, religious belief, sexual orientation or disability or, any other individual characteristic which may unfairly affect an individual's opportunity in life.

The Complaints Resolution Service will, where appropriate, ensure that complainants are asked to define their own ethnic origin, gender, any disability and age. We will seek to establish for the complaints procedure:

- An accurate picture of use by ethnic origin, age, gender, sexual orientation and disability;
- Where take-up or use could be improved or reviewed;
- Accessibility to all sections of the community;
- Whether any distinct needs exist amongst members of minority groups, for which special provision may be necessary; and
- That it does not inadvertently discriminate against any particular group.

## **2. THE COMPLAINTS RESOLUTION SERVICE**

Services to People have a designated Complaints Resolution Service (CRS) comprising of a complaints resolution manager, and two complaint officers. Working together, and in partnership with relevant social care services, it manages the childrens social care complaints process on behalf of the Local Authority to ensure that complaints are dealt with speedily and effectively. The CRS is independent of the operational line management of social care services and direct service providers. It promotes a resolution focus and keeps the complainant informed about the progress of the complaint. It works with colleagues to enable a comprehensive response is provided within statutory and agreed timescales.

The CRS will always deal with complainants in a polite and positive manner, and will do its utmost to ensure the duty placed on the local authority to act expeditiously through the procedure, is adhered to. Information is available from the CRS, explaining the complaints procedure and further details can also be found on the Council's website along with various other related items / links.

As soon as possible after having received a complaint, the CRS will provide the complainant with details of where to find the local authority's procedures, relevant legislative / guidance documents, and information about Advocacy Services. Once a complaint has been made the CRS will assist the complainant in following the complaints procedure and, where appropriate, offer advice on where assistance and guidance in accessing an Advocate can be sought.

## **3. DEFINING REPRESENTATIONS AND COMPLAINTS**

### ***Representations***

A representation allows children and young people (or their representative), parents and carers, and other persons with sufficient interest in the child or young person's welfare to comment on the services provided, to ask for changes to be made, and to enquire about different services they would like to receive. They can also comment about the place they live and the services they value the most.

Representations may also be positive remarks or ideas that require a response from the Local Authority. People can therefore make representations without it being a complaint.

In relation to representations that are not complaints, they should be responded to: setting out what action, if any, will be taken. If there is a failure to respond to the representation then the child or young person will be entitled to make a complaint at stage 1 about this.

### ***Complaints***

A complaint is an expression of dissatisfaction, however made, about the standard of service, actions, or lack of action by the local authority affecting a young person.

### ***What may 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 can 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 service
- Delivery or non-delivery of service

- Quantity, frequency, charge 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 policy
- Assessment, Care Management and Review

In addition the regulations provide that the following new functions may also be the subject of 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. This can be 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 Adoption and Children Act 2002);
- 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
- Assistance to ensure the continuation of the relationship between the child or young person and their special guardian or prospective special guardian.

### **4. WHEN THE COMPLAINTS PROCEDURE DOES NOT APPLY:**

- the person wishing to complain does not meet the requirements of "who may complain" and is not acting on behalf of such an individual;
- the complaint is not in regard of the actions or decisions of the Local Authority complained to, or of anybody acting on its behalf;
- the same complaint has already been dealt with at all stages of the procedure.
- a complaint is about a school and should be considered by the Governing Body under the school's own complaints procedure (unless it forms part of a wider social care complaint, and agreement is reached that it should be considered along with the substantive elements).

Regulation 8 provides the Local Authority with discretion in deciding whether to consider complaints where to do so would prejudice any of the following concurrent investigations:

- Court proceedings;
- Tribunals;
- Disciplinary proceedings; or
- Criminal proceedings.

If the Local Authority decides not to consider or, further consider complaints, subject to these concurrent investigations, the CRS will write to the complainant explaining the reason for the decision and specifying the relevant concurrent investigation.

Once the concurrent investigation has been concluded the complainant may resubmit their complaint to the Local Authority as long as it is within one year of the conclusion of the concurrent investigation.

## ***Anonymous Complaints***

Anonymous complaints fall outside the scope of the Regulations. Such complaints will be referred to the complaints resolution manager to decide what action, if any, will be taken.

## ***Who may make representations, including complaints?***

Sections 26(3) and 24D of the Children Act 1989 and section 3(1) of the Adoption and Children Act 2002 require us to consider representations and complaints made 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
- Such other person as we consider has sufficient interest in the child or young person's welfare to warrant their representations being considered

Where a complaint is received from a representative acting on behalf of a child or young person the complaints resolution manager has the discretion to decide whether or not the representative is suitable to act in this capacity or has suitable interest in the child's welfare. If following discussion with relevant operational manager(s) the complaints resolution manager considers that the representative does not have sufficient interest, he will notify the representative in writing, explaining that no further action will be taken.

Complaints made by a person, where the complaint relates to a child or young person but is not made on their behalf will be considered if it is deemed that the complainant has sufficient interest in the child or young person's welfare.

Complainants who do not meet the above criteria may be eligible to access the local authority's Corporate Complaints Procedure and/or the Local Government Ombudsman.

## ***Time limits for making a Complaint***

It is often difficult, and sometimes impossible to investigate in a full and fair manner, complaints which involve events that happened more than a year before the complaint is made. For this reason, we will not normally consider complaints made more than one year after the date of the event which gave rise to the complaint.

However, requests for a matter to be considered out of time under this procedure will be positively received if it can be demonstrated that there:

- Are genuine reasons for the complaint not being made within one year
- If there is sufficient access to information/individuals involved to enable an effective and fair investigation

Where it is decided that a complaint will not be considered, the complainant will be informed in writing of the reasons for this decision. The complainant has the right to approach the Local Government Ombudsman.

### ***Provision of Advocacy and Support***

During the course of making a complaint a child or young person may be offered the assistance of a children's advocate. We facilitate this provision of independent advocacy through Stockport's Children's Rights Service that works with children to ensure they are listened to and have their say. The service works with children and young people who are Looked After or, who meet the social care threshold and, therefore, have an allocated social worker.

Where an advocate is used the CRS will confirm that the advocate is acting with the informed consent of the young person.

The role of the advocate, as established under the Advocacy Services Representations Procedure (Children) (Amendment) Regulations 2004, is to provide independent and confidential information, advice, and representation to the young person making the complaint.

The role of the advocate in the complaints procedure is:

- To empower the child or young person by enabling them to express their views, wishes or feelings, or by speaking on their behalf
- To seek the resolution of any problems or concerns identified by the child or young person by working in partnership with them, and only with their agreement
- To support the child or young person pursuing a complaint through every stage of the complaints procedure, and to provide them with information about their rights and options
- To speak for or, represent the child or young person at any stage of the complaints process, including the initial stages or at any formal meeting or interview.

### ***Care leavers***

Managers must familiarise themselves with the local authority's arrangements for responding promptly to complaints from care leavers and securing effective advocacy services whenever they indicate that they are considering making a complaint, or if they suggest that they might like help to make representations to the local authority about the quality of the leaving care service that they have received. Advocacy offers young people empowerment, makes sure that their rights are respected and that their views and wishes are properly considered and reflected in decision making about their own lives. Services should take a pro-active role in identifying whether young people would benefit from this important source of support.

Under the new Planning Transition to Adulthood for Care Leavers guidance young people should be fully supported through the formal complaints process. Where a young person leaving care support makes a complaint, it must put into writing and submitted to the Complaints Resolution Service. This will be logged as an informal representation. Efforts should then be made with the young person to reach an acceptable informal resolution within 14 days.

Where informal resolution is not possible, the complaint will then be dealt with under the statutory complaints procedure and a decision will be made as to the appropriate stage to hear the complaint. The statutory timescales will commence at this point.

### ***Withdrawing a Complaint***

The complainant or, where one has been appointed, their advocate, may verbally or in writing withdraw their complaint at any time. The complaints resolution manager will write to the

complainant and any advocate, confirming the withdrawal of the complaint. Even if a complaint is withdrawn consideration may be given as to whether the issue(s) raised should be further considered by the local authority.

## **5. THE COMPLAINTS PROCEDURE**

### ***Stage 1 – Local Resolution***

*Stage 1 seeks the resolution of complaints by staff immediately concerned in service delivery. Our aim is for the majority of complaints to be considered and resolved at this stage. Where there is agreement, however, that it would not be appropriate to consider the complaint at stage 1, the regulations allow the matter to move directly to stage 2.*

In the vast majority of cases a complaint is registered on the date on which it is first received by the local authority and will be accepted in various forms such as verbally, in writing or by email. Alternatively it may be the date on which:

- a. The substantive elements of the complaint are agreed and a signed copy is received and registered.
- b. It was decided that the complainant has eligibility to use this procedure

There may, however, be occasions when for reasons, such as it being incorrectly addressed or, misdirected to a different service, a delay occurs in the complaint reaching the CRS. In this instance the complainant will be contacted by the CRS and advised of the reasons for the delay, and a new timescale by which a response will be made.

Following receipt of the complaint it will be acknowledged in writing within two working days and the CRS will provide details of where to access the local authority procedures. The details of the complaint will be registered and date-stamped and the complaint officer will forward the information to the appropriate social care service manager, without delay, so that its progress can be monitored. The service manager will investigate the complaint and provide a response directly to the complainant, and will also arrange for a copy to be forwarded to the CRS.

The vast majority of complaints dealt with at stage 1 will ideally be concluded within 10 working days. However, in cases where the complaint is made verbally, or the substantive element(s) of the written complaint is unclear, the complaint officer may write to the complainant to seek clarity. In this instance the timescales would start once the details of the complaint have been agreed.

Regulation 14 (1) places a 10 working day time limit for this part of the process. However, where the Local Authority cannot provide a complete response within the initial 10 working days, a further 10 days extension can be implemented. This might occur, for example, when a key person is off sick or on annual leave, if a letter is received by the CRS at a later date than it was first received by the local authority or, where a meeting has been arranged that falls just outside the statutory timescale: the result of which may impact on the complaint itself. After the twenty days have elapsed the complainant will be notified of the reason for the delay and be advised that they have the right to move to stage 2 of the process.

Where it is considered appropriate, and the complainant has agreed, arrangements for conciliation, mediation or, other services may be made at this stage to help resolve matters. If these arrangements resolve the complaint the social care service manager will provide the complainant with written confirmation of the agreed resolution, and provide a copy to the CRS. This will be recorded and the complaint will be closed. A further letter advising of the closure of the complaint will then be sent from the CRS to the complainant.

The local authority will monitor the operation and effectiveness of the complaints procedure and how information about complaints can be used to improve services and delivery. Outcomes from complaints will be fed back into strategic planning and operational delivery as part of organisational learning, and as a measure of performance and quality control.

### ***Deferring (freezing) decisions***

If the complaint is about a proposed change to a care plan, a placement or a service, the decision may need to be deferred (frozen) until the complaint is considered. However, care should be taken if deferring a decision is likely to have a significant effect upon the mental or physical wellbeing of an individual. If it has been decided not to defer a decision the appropriate manager will be asked to provide the CRS with the reason in writing.

### ***Timescales for Stage 1***

<b>Action</b>	<b>Timescales</b>
Complaint received / verified	
Complaint acknowledged	Within 2 working days of receipt / verification of complaint
Complaint response sent ( <i>including notifying complainant that they should inform the Local Authority of any intention to move to stage 2 - within 20 working days</i> )	Within 10 working days of receipt / verification of complaint
Any mediation and/or Extension	Up to further 10 working days
Complaint not resolved	Complainant advised of right to move to Stage 2
If complaint resolved - Closure letter	10 working days after being notified

The service will always endeavour to ensure compliance with the above timescales, however, where it is evident that timescales will be exceeded, the complainant will be notified of the reason for the delay and the date at which a final response will be provided.

A flowchart to the stage 1 process can be found in Appendices

### ***Stage 2 – Investigation and Adjudication***

*Stage 2 provides for complaints not resolved at stage 1 to be investigated by an Independent Investigator and Independent Person. Following the production of the investigator's report, a senior manager acting as Adjudicating Officer on behalf of the Local Authority, will write to the complainant with a response containing a complete copy of the investigation report, any report from the Independent Person, and the Adjudication report.*

Where a complaint has not been resolved at stage 1 or the timescale for responding has elapsed, the complainant has the right to request consideration of the complaint at stage 2. Requests should ideally be put in writing to the CRS, and within 20 working days of the date the stage 1 response was sent, and the complainant should outline any areas of the stage 1 response they remain dissatisfied with. However, in cases where a request for stage 2 is made verbally, or the substantive element(s) of the request is unclear, the complaint officer may write to the complainant to seek confirmation of the complaint. In this instance the timescales would commence once the final details of the complaint have been agreed.

Upon receipt of a request to move to stage 2 the CRS will acknowledge this in writing within 2 working days. The complaints resolution manager will appoint an Independent Investigator and Independent Person without delay to investigate the complaint on behalf of the Local Authority. The complainant will be advised of the appointments and that separate contact will be made by the Investigator and Independent Person to arrange a convenient time to discuss the complaint. Personal contact details for the investigators will not, as a rule, be provided to the complainant: the sharing of this information will be at their discretion.

The investigating officer may be employed by the Local Authority. However, they should not be in direct line management of the service or person about whom the complaint has been made or, be brought in from outside the authority, appointed specifically for this piece of work.

The timescale for the completion of stage 2 is 25 working days. Where it is not possible to complete the investigation within this time limit, stage 2 may be extended up to a maximum of 65 working days. Complainants will be informed as to the reasons for any delay and, where possible, a mutual agreement will be reached as to what is a reasonable timescale for the response to be made. Possible reasons for an extension might include:

- Where the complaint involves several agencies / services, or all or some of the matters concerned are the subject of a concurrent investigation (such as a disciplinary process)
- If the complaint is particularly complex or,
- If a key witness is unavailable for part of the time

*Should the complainant amend the written record of the complaint, the stage 2 timescale commences from the date the record was amended and / or agreed by the complaints resolution manager*

### **The Investigating Process**

The investigators will confirm the details of the complaint and any desired outcomes with the complainant, ideally, during the first meeting. A written record of the agreed complaint must then be forwarded to the complaints resolution manager as soon as possible.

*Should the complainant amend the written record of the complaint, the stage 2 timescale commences from the date the record was amended and / or agreed by the complaints resolution manager*

On completion of their investigation of the complaint, the investigator will then produce a report which will include:

- Details of findings, conclusions and outcomes against each point, i.e. 'upheld', 'partially upheld' or, 'not upheld' and
- Recommendations on how to remedy any injustice to the complaint

Consideration of the complaint at stage 2 should be fair, thorough and transparent with clear and logical outcomes.

The independent person is involved with every area of the investigation and will have access to all aspects to ensure its fairness and transparency. Once the independent person has read the investigator's final report, they will also provide a report to the complaints resolution manager who will, in turn, forward both reports to the local authority adjudicating officer. The independent person's report will comment on:

- Whether they think the investigation has been conducted entirely in an impartial, comprehensive and effective manner.

- Whether all those concerned have been able to express their views fully and fairly
- Whether the investigator's report provides an accurate and complete picture of the investigation
- The nature of the recommendations or, make their own recommendations as necessary

The investigator and the independent person should aim to submit their reports to the complaints resolution manager within 20 working days so that the adjudicating officer can consider the reports and respond within the 25 working day timescale. Where this is not practicable the investigating officer should contact the complaints resolution manager to agree an extension of up to a further 40 working days.

This process will be halted if, during the course of an investigation, evidence comes to light which indicates action is necessary under another procedure and that, where the investigation to proceed, it would compromise or prejudice the other procedure.

The complainant can withdraw from the investigation at any stage. Where this is the case the investigator will notify the complaints resolution manager of the reason why and what, if anything, the complainant wants to happen next. The CRS, in turn, will confirm the withdrawal of the complaint in writing to the complainant and place a copy on the complaint record.

### ***The Adjudication Process***

Once the investigation is complete and reports have been submitted to the complaints resolution manager, the adjudication officer will consider the complaint, the investigator's findings, conclusions and recommendations, the independent person's report, and the complainant's desired outcomes. The Adjudicating Officer may meet with the complaints resolution manager, investigator and independent person, to clarify aspects of the report.

The adjudicating officer will prepare a response to the reports and reach a decision on each element of the complaint. In addition the response will identify any action to be taken, with timescales for implementation – *this is the Adjudication*. This response, together with the copies of the investigator's report and the independent person's report, will be sent to the complainant and/or the person on whose behalf the complaint was made (if different from the complainant) and relevant officers. The response will inform the complainant of their right, if they are dissatisfied with the investigation and/or the adjudication, to have the complaint submitted to an Independent Review Panel. They will have 20 working days to make their request to the complaints resolution manager informing him of their wish to proceed to stage 3.

The adjudicating officer will ensure that any proposed actions in response to the investigator's recommendations are implemented. The complaints resolution manager will report to the Service Director regarding what action has been taken.

## **Timescales for Stage 2**

<b>Action</b>	<b>Timescales</b>
Complainant requests stage 2	
Complaint acknowledged	Within 2 working days of receipt / verification of complaint
Investigation	Up to 25 working days of receipt / verification of complaint
Response sent ( <i>including notifying complainant that case will be closed unless informed otherwise- within 20 working days</i> )	
Any extension	Up to further 40 working days
Complaint not resolved	Complainant advised of right to move to stage 3 (Review Panel) or, early referral to Local Government Ombudsman
Complaint resolved - Closure letter	20 working days after response sent

The service will always endeavour to ensure compliance with the above timescales, however, where it is evident that timescales will be exceeded, the complainant will be notified of the reason for the delay and the date at which a final response will be provided.

A flowchart to the stage 2 process can be found in Appendices

### **Early referral to the Local Government Ombudsman**

At the conclusion of stage 2, where there is evidence that a reasonable and appropriate consideration of the complaint was undertaken, and further consideration by an Independent Review Panel at stage 3, would not produce a demonstrably different outcome, the possibility of early referral to the Local Government Ombudsman (LGO) can be considered.

The Local Authority can consider this option if stage 2 has delivered:

- A very robust report
- A complete adjudication
- An outcome where all significant complaints were upheld (or all significant complaints in relation to service delivery)
- There is a clear action plan for service delivery
- The local authority agrees to meet the majority, or all the desired outcomes presented by the complainant, regarding social services functions

Where this is the case and the complainant agrees, the complaints resolution manager will approach the LGO and ask him to consider the complaint directly, without first going through a Review Panel. If this is the agreed way forward at this juncture the complainant and the Local Authority will need to agree a written statement of the complaint that will be provided to the Ombudsman, in order for it to be considered as an early referral.

If after applying a test of reasonableness, the LGO concludes that early referral would not be appropriate, a Review Panel would be arranged.

### **Stage 3 – Independent Review Panel**

*Stage 3 allows complainants the right to request further consideration of the complaint by an Independent Review Panel.*

Where a complainant remains dissatisfied following the conclusion of stage 2, they will be eligible to request further consideration of the complaint by an Independent Review Panel. All such requests should be put in writing and forwarded to the CRS within 20 working days of the receipt of the stage 2 adjudication and investigators' reports. The CRS will acknowledge the request in writing within 2 working days of receiving it. The chair of the Panel will be appointed within 10 working days of the request and the actual meeting should take place within 30 working days.

The review panel will consist of three independent people, (an independent chair and 2 independent panellists). As a general rule, the panel should not re-investigate the complaint, nor consider any substantively new complaints that have not been considered at stage 2. The purpose of the panel is to consider the complaint and wherever possible, work towards a resolution. It is not a quasi-judicial process and the presence of legal representation can work against the spirit of openness and problem-solving. However, the complainant has the right to bring a representative to speak on his/her behalf.

It is designed to:

- Listen to all parties
- Consider the adequacy of the stage 2 investigation
- Obtain any further information and advice that may help resolve the complaint to all parties satisfaction
- Focus on achieving resolution for the complainant by addressing the complaints and desired outcomes
- Reach findings on each of the complaints being reviewed
- Make recommendations that provide practical remedies and creative solutions to complex situations
- Support local solutions where the opportunity for resolution between the complainant and the local authority exists
- To identify any consequent injustice to the complainant where complaints were upheld, and to recommend appropriate redress
- Recommend any service improvements for action by the authority
- In the discharge of their duties and responsibilities the Panel will observe the requirements of the Human rights Act 1998; the Data Protection Act 1998, and other relevant rights-based legislation and conventions

The following principles will be observed for the conduct of the Panel:

- The Local Authority will recognise the independence of the Review Panel and in particular the authority of the chair
- The Panel will uphold a commitment to objectivity, impartiality and fairness and ensure the rights of the complainant and all other attendees are respected at all times
- The standard of proof applied by the Panel should be the civil standard of 'balance of probabilities' and not the criminal standard of 'beyond reasonable doubt'. This standard will be based on evidence and facts

- It will be at the panel chair's discretion, where required, to suspend or defer proceedings in exceptional circumstances,

## Attendance at the Panel

If the adjudicating officer has rejected any of the investigator's findings at stage 2 s/he will represent the Local Authority at the panel meeting. Where all the findings have been accepted, a delegated officer may attend on his/her behalf. Operational staff may also attend to provide specialist advice or opinion. The investigator and the independent person will also be invited to contribute and the Complaints Resolution Manager and anyone providing administrative support should also attend the Panel. Should any individual's lack of availability cause undue delay, the chair should take a view on proceeding with the Panel without them.

The complainant will be expected to attend and they may, if they wish, be accompanied by another person who will be entitled to be present throughout the meeting, and to speak on the complainants behalf. The Local Authority can proceed with the Panel in the complainant's absence at the complainant's request.

## The Review Panel Meeting

The complainant will be informed in writing of the details of Panel members at least 10 working days before the meeting, and of their right to make a submission before or, at the meeting.

The Panel will be conducted as informally as possible but in a professional manner, and in an atmosphere that is accommodating to all those attending. The Review Panel will be conducted in three parts:

- Pre-meeting
- Presentations
- Deliberation

### The pre meeting

This is an opportunity for the Panel and their administrative support to meet in closed session to discuss the order of business and any other relevant issues (e.g. taking legal advice). No deliberation on the complaint will take place at this meeting.

### Presentations

At the start of the meeting the chair will:

- Explain its purpose and the need for confidentiality
- Advise the complainant of the respective roles and responsibilities of those present
- Address any concerns or questions the complainant may have about the process

The chair will ensure that the Panel's focus is on the agreed complaint and the complainants desired outcomes from the stage 2 investigation. The purpose for hearing the presentations is to understand each party's opinion of the complaint, rather than using the opportunity to cross-examine the attendees. The chair will ensure that presentations are reasonable and relevant and, where necessary will limit the scope, substance and duration of presentations.

The complainant (or their advocate/representative) makes the first presentation, stating the reasons for their dissatisfaction with the investigation and the adjudication. They can offer any

relevant themes which may assist the Panel in its deliberation, and detail their desired outcomes.

The Adjudication Officer's presentation (which may include contributions from operational managers) will cover the elements of the complaint, and the complainant's desired outcomes which may assist the Panel in its deliberation.

Members of the Panel will have the opportunity to ask questions of all present to seek clarification of the issues being discussed. The chair will invite the complainant, the Adjudicating Officer and other attendees to ask questions and raise points of information and opinion which are relevant to the complaint in order to assist the Panel with its deliberation.

#### Deliberation

Following the presentations the Panel will deliberate on its findings and conclusions in closed session. The Panel will produce a written report within 5 working days of the meeting that should contain any recommendations for the resolution of the issues and the reasons for them. Where a panel member disagrees with the majority recommendation, their views will be recorded. The Review Panel must set out its recommendations to the Local Authority on any strategies that can assist in resolving the complaint.

The Panel's report will contain a brief summary of the representations and their recommendations for resolution of the issues. This must be sent to the complainant, the Complaints Resolution Service, both independent investigators, and any other person with sufficient interest, within 5 working days of the panel meeting.

#### After the Panel

The Local Authority must send its response to the Panel's recommendations to the complainant (and other participants as necessary) within 15 days of receiving the Panel's report. The response will set out how the Local Authority will respond to the recommendations and what action, if any, it intends to take. The complainant will be advised of the right to refer the complaint to the Local Government Ombudsman if s/he still remains dissatisfied.

#### ***Timescales for Stage 3***

<b>Action</b>	<b>Timescale</b>
Complainant requests Review Panel	Up to 20 working days after receipt of stage 2 adjudication
Complaints manager acknowledges request	Within 2 working days
Complaints Resolution Manager appoints chair and confirms attendees and content of panel papers with chair	Within 10 working days of the complainant's request for Review Panel
Local Authority agrees the other panellists and date for Review Panel	Within 30 working days of the complainant's request for Review Panel
Local Authority circulates Panel papers	Within 10 working days of the date for the Review Panel
Review Panel produces written report (including any recommendations)	Within 5 working days of the Review Panel
Relevant Service Director issues a response	Within 15 working days of receiving the Review Panel's report

The service will always endeavour to ensure compliance with the above timescales, however, where it is evident that timescales will be exceeded, the complainant will be notified of the reason for the delay and the date at which the Panel will be convened.

A Flowchart to the stage 3 process can be found in Appendices

## **6. DEFINITION OF ROLES**

### ***Complaints Resolution Manager***

Key tasks for the Complaints Resolution Manager include:

Overseeing the Procedure by:

- managing, developing, resourcing and administering the complaints procedure;
- overseeing the receipt and investigation of complaints that arise from problems that could not be resolved initially;
- appointing Investigating Officers, Review Panellists and Independent Persons;
- ensuring that there are no conflicts of interest at any stage between parties involved in delivering the procedure;
- promoting local resolution;
- monitoring the progress of the investigation and ensuring its smooth running;
- working closely with the Panel Chair on the organisation of Stage 3 Review Panels;
- monitoring and reporting on time scales;
- maintaining a written record of complaints made, the procedure followed and the outcome; and
- compiling the annual report.

Maintaining a customer focus by:

- providing a sensitive, customer-focused service for representations and complaints, appropriate to the needs of children and young people;
- providing help and advice to children and young people and others who may wish to make a complaint so that they understand the options available for resolution both within the complaints procedure or, alternatives routes of remedy and redress;
- ensuring that advocacy services are explained, offered and provided when required;
- ensuring the complainant is kept informed at all stages;
- offering advice on the response of the authority; and
- providing practical support to complainants.

Supporting the Local Authority by:

- providing guidance, advice and support to staff on the management of complaints;
- supporting staff involved in all stages of the complaints procedure;
- commissioning appropriate training;
- overseeing the arrangements for publicity;
- evaluating and reporting on the numbers, types, outcomes and trends of complaints to inform practice, development and service planning;
- maintaining a pool of people with skills and training needed to conduct investigations; and
- Ensuring that commitments given in any response are implemented.

### ***Independent Investigating Officer***

The Investigating Officer has overall responsibility for investigating the complaint at Stage 2. Where a member of staff, the Investigating Officer should not be within line management of the service being complained about.

The Investigating Officer's undertakings include:

- providing a comprehensive, open, transparent and fair consideration of the complaint through:
  - sensitive and thorough interviewing of the complainant;
  - consideration of social work records and other relevant information;
  - interviewing with staff and other people relevant to the complaint; and
  - analysing information;
- preparation of the report of the investigation in a clear, plain language;
- effectively liaising with the complainant or his advocate, the Independent Person and the Complaints Resolution Manager as appropriate; and
- identifying solutions and recommending courses of action to resolve problems.

Given the importance of providing an efficient response to the complainant, the Independent Investigating Officer will need to prioritise the work effectively and have due regard to the regulated timescales for investigation.

### ***Independent Person***

Local authorities must involve an Independent Person (IP) in the investigation of complaints at Stage 2. The person appointed should be neither an Elected Member nor an employee of the Local Authority, nor a spouse of an employee or member of the authority. Former Local Authority employees are eligible, but good practice would suggest at least three years have elapsed since they were employed by the Local Authority.

The Independent Person may not undertake any other roles in the consideration of the same complaint (such as advocate, or Review Panelists).

The Independent Person should:

- ensure that the process of investigation is open, transparent and fair;
- work alongside the investigating officer to provide an independent and objective view to the investigation of complaints;
- see the same relevant files and documents as the investigating officer;
- participate in all interviews and discussions relevant to the investigation;
- read the investigating officer's report and produce his own report on the investigation;
- comment on each elements of the complaint and state whether he agrees with the investigating officer's findings on them; and
- explain, where necessary, his reasons for considering an investigation to be unfair or incomplete, and to advise the complainant of these in his report.

### ***Advocates in the Complaints Procedure***

The role of the advocate was established under the Advocacy Services Representations Procedure (Children) (Amendment) Regulations 2004. The advocate should provide independent and confidential information, advice, representation and support to the child or young person making the complaint. The role of the advocate in the complaints procedure is:

- to empower the child or young person by enabling him to express his views wishes or feelings, or by speaking on his behalf;

- to seek the resolution of any problems or concerns identified by the child or young person by working in partnership with the child or young person, and only with his agreement;
- to support the child or young person pursuing a complaint through every stage of the complaints procedure and to provide him with information about his rights and options, helping him clarify the complaint and the outcomes he is seeking; and
- to speak for, or represent the child or young person at any stage of the complaints process, including at the informal stage or at any formal meeting or interviews.

Further detailed guidance can be found in '*Get it Sorted: Providing Effective Advocacy Services for Children and Young People making a Complaint under the Children Act 1989*'. Department for Education and Skills, 2004.

### ***Adjudicating Officer***

The purpose of the Adjudicating Officer is to consider the complaints, the investigators' findings, conclusions and recommendations, and the complainant's desired outcomes.

The Adjudicating Officer writes to the complainant at the end of Stage 2 with details of the adjudication which:

- confirms the local authority's response to the report;
- gives his view on whether the investigation has been thorough and complete;
- states his position on the investigators' findings against each element of complaint;
- states any actions that the local authority will be taking and the timescale for implementation;
- confirms the complainant's right to request Stage 3 within 20 working days; and
- reminds the complainant of his right to approach the Local Government Ombudsman at any time.

The Adjudicating Officer should issue the details of the adjudication with the investigation report and the Independent Person's report. He should also release the reports to his staff as appropriate.

### ***Review Panel***

The Panel consists of a Chair and two other people appointed by the Local Authority. All Panel members must be independent – this means people who are neither members, nor officers of the local authority to which the representations have been made, nor the spouse or civil partner of such people. In appointing the Panel Chair, former members or officers of the Local Authority may be considered on a case-by-case basis, but good practice suggests that three years should have elapsed since.

The panelists 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 opinion based on any specialist skills, knowledge and awareness that they have in respect of the presenting complaint.

### ***Independent Chair of Review Panel***

The role of the Chair is to:

- confer with the Complaints Resolution Manager about the specific needs of the complainant;
- agree who will 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 member;
- 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.

### ***Clerk to the Panel***

The local authority will need to provide administrative support for the operation of the Panel which may be in the form of a clerk. This role may be filled by a different officer to that of the Complaints Resolution Manager. It is recommended that the clerk should assist from the point of appointment of the Panel through to the production of its final recommendations to the local authority.

Tasks the clerk might undertake include:

- organising the venue, facilities and refreshments;
- distributing written submissions from the complainant and the authority;
- supporting the Complaints Resolution Manager and Chair as required;
- ensuring that procedure on the day is adhered to;
- taking notes to facilitate the Panellists' decisions;
- specifying with the complainant whether he will be bringing any representatives or witnesses with him and assist as necessary; and
- providing administrative support to the Chair and Panel to produce and issue the final recommendations to the local authority complainant and other attendees within five working days.

### ***Local Authority Representative at the Review Panel***

The Adjudicating Officer should represent the Local Authority where he has rejected any of the Investigating Officer's findings at Stage 2 or, where the Panel Chair requests his attendance. However, where all the findings have been accepted, the Adjudicating Officer can delegate this role. He should do so to a member of staff with sufficient status in the Local Authority to represent it.

The Local Authority representative should:

- provide further information to support the Local Authority's position;
- consider whether any other member of staff should attend to address specific issues and

- request their attendance through the Chair;
- prepare a presentation to give to the Panel on the day;
- keep all staff involved in the complaint, but who are not attending the Panel, informed of the proceedings; and
- act on any recommendations from the Panel (as required by the Corporate Director).

## **7. OTHER MATTERS**

### ***Concurrent Procedures***

The handling of a complaint may coincide with action under the disciplinary procedures or on occasion, a police investigation. Alternative procedures should operate concurrently with the complaints procedure, particularly where, for example, a complaint about a deficiency in service may also bring to light issues of a disciplinary nature. Decisions on how to proceed will be based on individual cases in order to draw clear distinctions between a complaint, a grievance, legal proceedings, and the reporting of a matter that is a criminal offence.

Staff will be kept informed of progress of the complaint, but may not be given any details that would breach confidentiality or, work against the child or young person's best interests.

The Local Authority has discretion not to commence the complaints investigation where to proceed with it would compromise a concurrent investigation under another statutory or internal procedure.

### ***Complaints about Regulated Providers***

Specific complaints procedures are required under separate regulations and National Minimum Standards under the Care Standards Act 2000. They are, therefore, distinct from the complaints procedure for Local Authorities. Confusion may sometimes arise about which procedure is appropriate for specific sets of circumstances.

Complaints are likely to arise from the following issues:

- Commissioning
- Placement arrangements
- Placement monitoring
- Personal needs reassessments
- Funding
- Contractual arrangements
- Service agreements
- Service quality, and
- Care regime matters not covered by Regulations and National Minimum Standards

If a complaint is received in relation to the above, for instance, the Complaints Resolution Manager will need to consider under which process it should be dealt with. The complainant should be able to make a single complaint to the provider or, Local Authority and have this considered by the relevant parties as necessary. It is possible to have two complaints ongoing at the same time, for instance, one to a residential placement, and one to a Local Authority.

Where a complaint is received about services provided under the Children's Homes Regulations 2001, the relevant parts of the complaint will be referred to the registered provider within 5 working days. Where the complaint consists of elements relating to both social care functions and services provided under the Children's Homes Regulations 2001, the Local Authority will

liaise with the provider to ensure that the complainant receives one response dealing with all aspects of the complaint.

### ***Safeguarding Children***

Where consideration of a complaint leads to concerns about the welfare of children, these should be referred immediately to the Safeguarding Unit or the police. The handling of any associated complaint can be suspended if necessary.

If there are subsequent complaints about the work of individual agencies, or their performance or the provision or non-provision of services, these will be handled in line with the particular agencies complaints process.

### ***Unacceptable Behaviour and Unreasonably Persistent / Vexatious Complainants***

The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who complain. However, the Local Authority does not expect its staff to tolerate unacceptable behaviour from a complainant that is considered abusive, offensive or threatening, and will take action to protect staff from that behaviour.

There is a range of options open to the Local Authority if it considers that a complainant's behaviour is unacceptable. In the first instance it will write to them outlining those aspects of their behaviour that are considered unacceptable and ask him/her to change it. If the behaviour persists, the authority may take action to restrict or, place conditions on the complainant's contact with its offices for a determined period. The complainant can challenge that decision and will be advised how to do so, which may be through the Local Government Ombudsman.

In deciding the appropriate action to take, the Complaints Resolution Manager will refer to the guidance documents, "Getting the Best from Complaints – Social Care Complaints and Representations for Children, Young People and Others' and, the Local Authority's Policy on Handling Unacceptable Behaviour and Unreasonably Persistent/Vexatious Complainants.

The aim of these policies is:

- To provide definitions of unreasonably persistent/vexatious complainants
- To identify an approach to respond fairly to such complainants
- To ensure that other service users or, Local Authority staff do not suffer any detriment from people making unreasonably persistent complaints, or behaving in an unacceptable way.

Further information regarding the above documents can be accessed via the Council website.

### ***Monitoring Arrangements***

In dealing with complaints on behalf of Services to People the CRS uses an ICT-based system: RESPOND CenterPoint, to log all information pertaining to a complaint, including records of letters, reports, telephone conversations, and any other details relevant to the complaint. This system enables the service to track the progression of a complaint and any activity carried out. In addition it enables the service to provide up-to-date reports on request.

The Complaints Resolution Service will keep a record of:

- Each representation / complaint received
- The outcome of each, i.e., the decisions made in response to the complaint and any action taken if necessary

- Whether there was compliance with time limits

The overall purpose of recording this information is to enable:

- Children and young people to see that their concerns and representations are being treated seriously, dealt with swiftly, and fair consideration has taken place;
- To ensure the retention of records complies with the Local Authority retention Schedule;
- The organisation to demonstrate that complaints are taken seriously and used to drive organisational and service improvements across Services to People.

## 8. USEFUL CONTACT NUMBERS

**The Local Government Ombudsman:** - [Local Government Ombudsman's](#) current role is to look at any maladministration, or potential maladministration, on the local authority's part. This includes the way in which it handles complaints and its adherence to procedures.

The Local Government Ombudsman can be contacted at the following address:

The Local Government Ombudsman  
Beverley House,  
17 Shipton Road, York, YO3 6FZ.  
Tel: 01904 380200.

**OfSTED:** - OfSTED regulates social care services in England, such as children's homes, residential family centres and fostering and adoption services. All social care providers must meet national minimum standards and the associated regulations, set by the Government, in order to qualify for registration.

From time to time parents, and others with an interest in children's social care, have concerns about the quality of these care services. When considering complaints, OfSTED do not act as a complaint adjudicator, or decide if complaints are upheld, partially upheld or are unsubstantiated. Instead it investigates concerns to make sure that the social care provider continues to meet the national minimum standards and associated regulations and remains suitable for registration.

Contact:  
OfSTED Regional Office  
3rd floor  
Royal Exchange Buildings  
St Ann's Square  
Manchester  
M2 7LA  
Tel: 0300 123 1231  
[www.ofsted.gov.uk/](http://www.ofsted.gov.uk/)

### ***Complaints Resolution Service:***

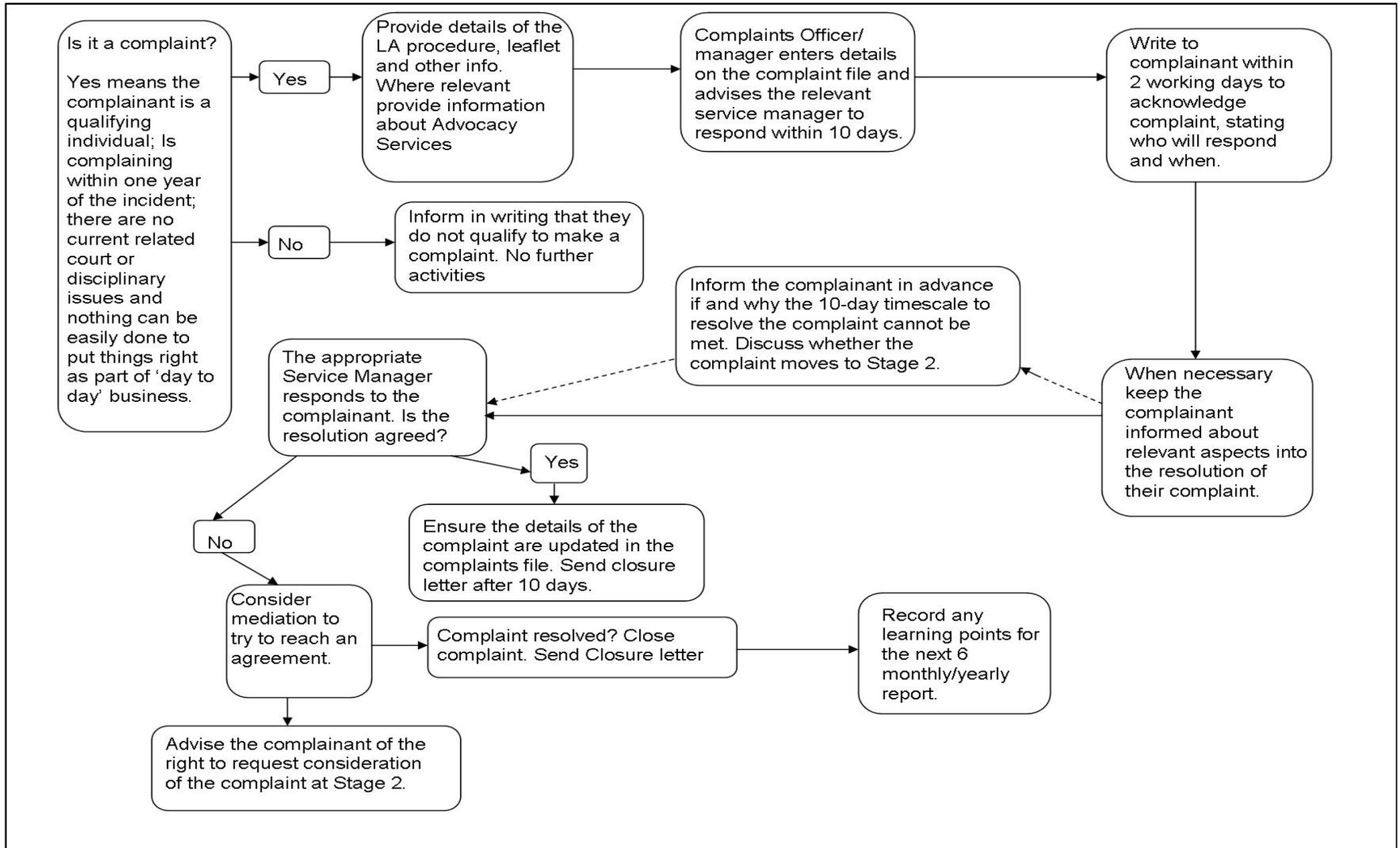
Complaints Resolution Service  
Services to People  
Level 3, Stopford House Stockport  
SK1 3XE  
Tel: 0161 474 3898 / 3938

Minicom: 0845 644 4306  
Email: [talktous@stockport.gov.uk](mailto:talktous@stockport.gov.uk)

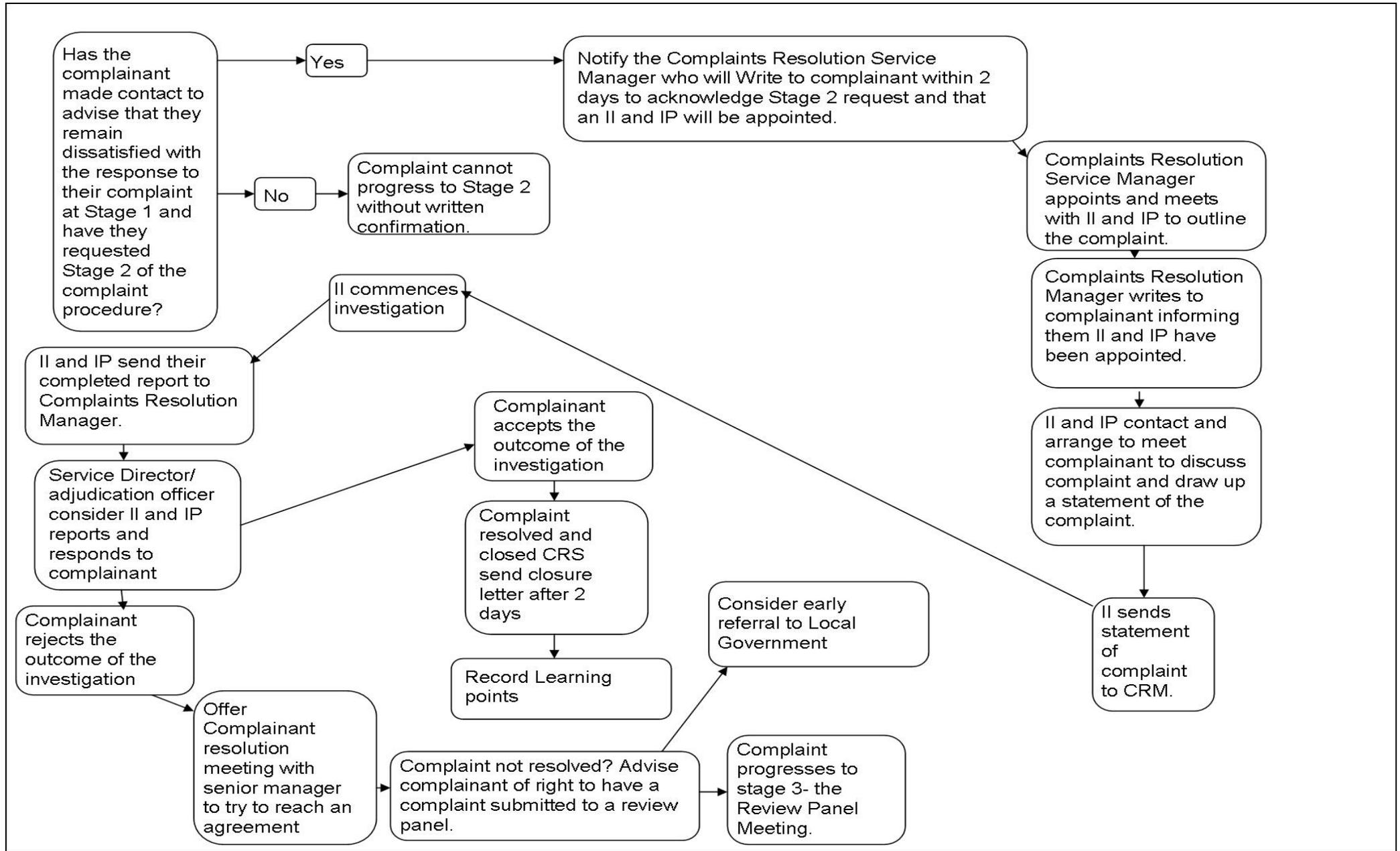
***Children's Rights Service:***

Stockport Children's Rights Service  
Services to People  
3rd Level, Stopford House (North)  
Tel: 0161 474 2564

**Stage 1 Flow Chart**



## Stage 2 Flow Chart



**Stage 3 Flow Chart**

