

Ealing Council

Children And Families

**Representations And Complaints Policy For Children,
Young People And Other Qualifying People**

Representations And Complaints Policy For Children, Young People And Other Qualifying People	1
1 Introduction	4
2 Aims and Objectives of the Complaints Procedure	4
3 Principles.....	4
4 Legal Framework:	5
5 Duties of the Local Authority	5
6 What is a complaint?	5
7 Who can complain?.....	6
8 Who may complain on behalf of someone else	7
9 Complaints relating to more than one local authority	7
10 Complaints that do not qualify under this Complaints Procedure.....	7
11 Freezing Decisions.....	9
12 Confidentiality	9
13 Recording and monitoring of complaints, representations, comments and compliments	9
14 Publicity	10
15 Redress	11
16 Unreasonably persistent complaints and unacceptable behaviour	11
17 Cross Boundary complaints	11
18 Stages of the Complaints Procedure.....	12
Appendix A - Policy on Persons who qualify as a person with sufficient interest.....	13
1 Introduction	13
2 Factors to consider when deciding whether a person qualifies as a complainant under 'sufficient interest' criteria.....	13
3 Policy.....	13
4 The Decision	14
Appendix B - Policy On Unreasonably Persistent, Frivolous Or Vexatious Complaints	15
1 Introduction	15
2 Decisions.....	15
3 Informing the complainant.....	15
4 New complaints	16
5 Information sharing	16
6 Recording and Monitoring	16
Appendix C - Policy On Unacceptable Behaviour	17
1 Introduction	17
2 Decisions.....	17
3 Informing the complainant.....	17
4 New complaints	18
5 Information sharing	18
6 Recording and Monitoring	18

Appendix D - Remedies Policy	19
1 Introduction	19
2 Aims	19
3 Contractors.....	19
4 Exceptions.....	19
5 Remedies	20
6 When a financial remedy should be considered	20
Appendix E - Policy Of Advocacy	21
1 Aims	21
2 Exclusions	21
3 Legal Requirement.....	21
4 The Role of the Advocate.....	21
5 The National Standards	21
6 Principles.....	22
7 Advocacy Services	23
8 Confidentiality.....	23
9 Recording and Monitoring	23
10 Funding Advocacy.....	23
11 Telephone numbers, post and e-mail addresses, fax numbers	24

1 Introduction

- 1.1 Children and Families are required to operate a three stage statutory complaints procedure under the Children Act 1989 Representations Procedure (England) Regulations 2006.
- 1.2 Any complaint that does not qualify for consideration under this statutory social services procedure must still be considered for eligibility under the Council's Corporate Complaints Procedure.
- 1.3 The main purpose of this procedure is to enable service users or potential services users and/or those with sufficient interest, to comment on, complain about or compliment the quality and nature of social care services provided by Children and Families. This includes any service commissioned by Children and Families where an external contractor provides the service.

2 Aims and Objectives of the Complaints Procedure

- 2.1 To recognise the rights of all Service Users to make complaints and representations and to have their views considered within a clear procedure as defined by law.
- 2.2 To support the principle aim from 'Every Child Matters' that council staff and all partner organisations work together so that every qualifying child, young person and/or adult facing problems and challenges who wish to make a complaint or representation are well supported in reaching a satisfactory resolution.
- 2.3 This procedure aims:
 - To ensure that children, young people and qualifying individuals are aware of how to make a complaint
 - To provide a sensitive and customer focussed service for complaints and representations by offering help and advice to complainants, members of the public and other interested parties.
 - To clarify the complaints process for children, young people, qualifying individuals and members of staff
 - To offer advocacy services in line with statutory requirements (see [Appendix E](#)).
 - To meet the complaints performance target requirements for Children and Families;
 - To report on complaints in order to provide an additional means of monitoring performance and improving service quality.

3 Principles

- 3.1 To provide an open, fair and prompt resolution of complaints within a procedure which is accessible, clear and easy to use for all.
- 3.2 To ensure that everyone who uses the service are treated with dignity and respect, are not afraid to make a complaint and have their concerns taken seriously.
- 3.3 To ensure that any concerns about the protection of vulnerable children and young people are referred immediately to the relevant senior manager for consideration under the appropriate policy.
- 3.4 To ensure that the complainant receives the opportunity to receive support if they so wish.

- 3.5 To secure sensible and effective links with other policies and procedures in the council and with external partners and service providers.

4 Legal Framework:

- 4.1 Complaints about Children and Families provided by Local Authorities are governed by:
- a. The Children Act 1989 Representations Procedure (England) Regulations 2006.
 - b. These Regulations also apply to complaints about services provided pursuant to partnership arrangements made under Section 31 of the Health Act 1999.
 - c. Advocacy Services and Representations Procedures (Children) Amendment Regulations 2004.

Guidance issued July 2006 by the Department For Education and Skills 'Getting the Best from Complaints - Social Care Complaints and Representations for Children, Young People and others'.

5 Duties of the Local Authority

- 5.1 Children and Families must **consider** any representations or complaints; give due regard to any **findings**; **decide** any action or proposed action; formulate a **response**; provide **reasons** for the decision and **notify** the decision in **writing** within the following timescales.
- Stage 1 - 10 working days extendable to 20 working days
Stage 2 - 25 working days extendable to 65 working days
Stage 3 - 30 working days from request to convene a Review Panel
- 5.2 An **Independent Person must take part** in the consideration of a Stage 2 complaint.
- 5.3 Children and Families must offer **assistance and guidance** to complainants.
- 5.4 Regulations require the local authority to designate an officer, known as the **Complaints Manager** to undertake key tasks to ensure the efficient management and implementation of this procedure.

6 What is a complaint?

- 6.1 Complaints by Service Users and potential Service Users are divided into two categories - Representations And Complaints.

Representations:

A representation may be regarded as a comment, enquiry or statement of a formal nature regarding matters such as the availability, delivery or nature of services. They will not necessarily be critical. They can be taken into account when assessing the quality of a service provided, but are not usually viewed as a complaint.

Complaints:

A complaint is any verbal or written expression of dissatisfaction or disquiet by a 'qualifying individual' in relation to an individual child or young person concerning the services provided by or not provided by Children and Families which requires a response.

If a complaint can be resolved immediately, there is no need to engage this complaints procedure.

- 6.2 A complaint will be considered under the Social Services Complaints procedure when it arises from a statutory social service function as set out in the Children Act 1989 and the Adoption and Children Act 2002. Care standards complaints are not covered by this procedure.

Complaints may arise for various reasons, such as:

- An unwelcome or disputed decision
- Concern about the quality or appropriateness of a service
- Delay in decision making or provision of services
- Delivery or non delivery of services including complaints procedures
- Quality, frequency, change or cost of a service
- Attitude or behaviour of staff
- Application of eligibility or assessment criteria
- The impact on a child or young person of the application of a local authority policy
- Assessment care management and review

- 6.3 Complaints should also be considered under this procedure when they are about relevant services provided under any 'joined up' arrangements with third party providers. This includes those which fall outside the formal arrangements under Section 31 of the Health Act 1999, for example where the service user's assessed needs are met by a contract with another public body, agency or voluntary body.

7 Who can complain?

- 7.1 For the purposes of this procedure, a qualifying person is a person for whom the local authority has a power or duty to provide a service or the need for such a service has come to the attention of the local authority and includes:

- A 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
- A young person between the ages of 18-21 who was formerly looked after by the Local Authority
- 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 for Special Guardian Support Services
- 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
- Anyone else who the local authority considers to have sufficient interest in the child's welfare (see [Appendix A](#)) including any person who has care of him
- Users of services provided by outside agencies who are providing a service on behalf of Children's services retain the right to use this procedure.

8 Who may complain on behalf of someone else

- 8.1 A complaint can be made by a representative acting on behalf of an eligible person where that person has asked the representative to act on his behalf or is not capable of making the complaint himself (this includes a person who has died)
- 8.2 If there is a conflict of interest, i.e. a representative is not acting in the service user's best interests, the team manager in consultation with the complaints manager has the discretion to decide whether or not the representative is suitable to act on behalf of the service user. If the representative is deemed as unsuitable, the complaints manager will notify the representative in writing of the decision with reasons and advise the representative of their own right to complain. In such circumstances, the team manager in consultation with the complaints manager will consider whether the service user would benefit from the services of an advocate.

9 Complaints relating to more than one local authority

- 9.1 Where a complaint relates to two or more local authorities, the complaints manager of the authority where the service user is currently being looked after will be responsible for administering the complaint. This complaints manager will ensure that each authority responds to any complaint relating to services provided by them as required by their own complaint procedure.

10 Complaints that do not qualify under this Complaints Procedure

- 10.1 The person wishing to complain does not meet the requirements of 'who may complain' and is not acting on behalf of any such individual;
- 10.2 The complaint repeats a complaint which has already been investigated at all stages of the procedure OR has been investigated by the Local Government Ombudsman.
- 10.3 The complaint is unclear, frivolous, vexatious or unreasonably persistent (See [Appendix B](#) and [Appendix C](#))
- 10.4 The complainant has stated in writing that s/he intends to take legal proceedings in relation to the substance of the complaint or to the extent that any aspect of the complaint is already within the remit of a court or tribunal to determine. Where social work information has been used in court proceedings the complainant can make a complaint about the quality and accuracy of the information.

- 10.5 Disciplinary proceedings are being pursued in relation to the substance of the complaint against a person who is the subject of a complaint.
- 10.6 The Local Authority has been notified that criminal proceedings have been commenced in relation to the substance of the complaint.
- 10.7 The Local Authority has been notified that proceedings have been commenced under Section 510 of the Care Standards Act 2000 in relation to the substance of the complaint.
- 10.8 If the complaint is made more than one year after the event which is the subject of the complaint unless the Complaints Manager in consultation with the Director of Children and Families is satisfied that:
- a. it would not be reasonable to expect the complaint to have been made earlier than it was made AND
 - b. notwithstanding the delay, it is still possible to consider the complaint effectively and fairly
- 10.9 The Complaints Manager in consultation with the Director of Children and Families is satisfied that the complainant is not conducting the complaint in the best interests of the person on whose behalf he/she is making the complaint.
- 10.10 Complaints about policy decisions to withdraw or reduce on-going services in relation to Ealing Council's services **generally** rather than in relation to the **impact on an individual** should be provided with an explanation, and advised to refer the matter to the Leader of the Council or their local councillor.
- 10.11 If a complaint indicates that it should be dealt with under other proceedings such as:
- disciplinary procedures
 - grievance procedure
 - complaints by staff about personnel issues
 - complaints which should be considered under the council's corporate complaints procedure
 - an adult protection investigation;
 - an investigation by one of the professional regulatory bodies;
 - an investigation of a criminal offence where court action is pending
 - services for which an alternative statutory appeals process exists
- The Complaints Manager will decide in consultation with the Director of Children and Families to what extent the complaint can be investigated without prejudicing the concurrent investigation.
- 10.12 Where a part or all of a complaint relates to an establishment or agency which is required to be registered under Care Standards Act 2000.
- 10.13 Anonymous complaints fall outside this procedure. However they should be referred to the Complaints Manager, who will record them and give due consideration and action taken if serious concerns are raised.

11 Freezing Decisions

- 11.1 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. Consideration will be given to deferring a decision that will have a significant effect upon the life of an individual until the complaint has been resolved. Decisions will be made on a case-by-case basis having regard to the best interests of the child or young person, but there should be a general presumption in favour of freezing, unless there is a good reason against it (for example, if it puts a service user at risk). The Complaints Manager will bring the matter to the attention of the Director of Children and Families who will take the final decision to 'freeze' the decision.

12 Confidentiality

- 12.1 In the implementation of the complaints procedure, service user's confidentiality should be maintained and the requirements of the Data Protection Act 1998 adhered to.
- 12.2 Complainants and staff have the right to know what use will be made of personal information. Information will be shared only on a need-to-know basis.
- 12.3 All complainants requesting independent consideration of a complaint will provide written, signed and dated agreement to sharing personal information for this purpose.
- 12.4 Those involved in the investigation should have access to the notes of their own interview in order to confirm the accuracy of the content.

13 Recording and monitoring of complaints, representations, comments and compliments

- 13.1 The Regulations set out monitoring as one of the aims of an effective Complaints Procedure. Information gathered from complaints will be used for monitoring purposes.
- 13.2 The Director of Children and Families will make arrangements for the Complaints Manager to record all complaints, representations and compliments received about services within Children and Families including those under the corporate complaints procedure and those referred to other bodies.
- 13.3 The Complaints Manager will be responsible for collecting and aggregating information on complaints about any service provided under Children and Families. This information should include all stages of the complaints process and cover the following:
- the number and subject of complaints in each service area
 - compliance with timescales for acknowledgement and response to complaints;
 - action taken
 - outcomes of complaints,
 - lessons learned and implemented from complaints.

- 13.4 The following information relating to complainants will be collated and aggregated:
- age
 - gender
 - ethnic origin
 - faith
 - disability
- 13.5 The complaints manager will be responsible for producing weekly and monthly progress and monitoring reports for team and service managers, Directors and Executive Director so that managers can monitor performance, assess to what extent service objectives are being met and how services can be adapted. Information on complaints about the performance of external services will provide information about the effectiveness of the contract.
- 13.6 An annual report will be presented to the relevant scrutiny panel which will include statistical information on all 3 stages of the complaints procedure and will incorporate information on lessons learnt. This information will provide Councillors with the means to review the effectiveness of the complaints procedure. This report will be available to for public scrutiny under the Freedom of Information Act 2000.
- 13.7 Statistical information and the effectiveness of the complaints procedure will be evaluated annually through consultation with all those involved in the complaint process. This information will help in evaluating:
- how policy is interpreted by staff and users
 - how effective communication is with staff and the public
 - where staff training is required
 - whether resources are targeted correctly
- 13.8 Records of any complaints including investigation reports and responses will be placed on the service user's file and kept by the complaints manager. Disclosure of this information is bound by the requirements of the Data Protection Act 1998.

14 Publicity

- 14.1 Children and Families will ensure that information about the complaints procedure and how to make a complaint will be available to all members of the community in a format relevant to their age and/or need. Complaints leaflets are available through the Customer Care Unit.
- 14.2 As soon as possible after receiving a complaint or representation, Children's social care staff will provide the complainant with a complaints leaflet. More detailed information about the complaints procedure and advocacy services is available from the Customer Care Unit as and when required.
- 14.3 The complaints procedure is available on the intra/internet and from the Customer Care Unit. The complaints manager will make sure that this procedure is known and understood by all staff, elected members, Investigating Officers, Independent Persons, Review Panellists, Advocates and Independent Reviewing Officers.

14.4 Information, training and support for staff and those who operate within this procedure will be regularly timetabled to ensure that they are able to work positively with the procedure and the cultural and specific needs of the complainant.

15 Redress

15.1 Children and Families will ensure that where it has been found at fault, it will acknowledge errors, apologise for them, provide an explanation, and take any necessary action.

15.2 Under Section 92 of the Local Government Act 2000 local authorities are empowered to remedy injustice arising from maladministration. Remedies can include, but are not restricted to, financial redress. Financial remedies should only be considered on an exceptional basis.

15.3 Each case will be considered on its own merits and within the framework defined by the Social Care Remedies Policy ([Appendix D](#)) and will assure consistency and fairness across similar cases.

16 Unreasonably persistent complaints and unacceptable behaviour

16.1 Ealing Council is committed to dealing with all complaints fairly and impartially and to provide a high quality service to those who complain. Access to this service and to council officers and employees is not normally limited. However, there are a small number of complainants who, because of the frequency and/or the manner of their contact with the council, seriously hinder consideration of their own complaints.

16.2 Features of a persistent complainant may include:

- making the same complaint repeatedly or with minor differences but never accepting the outcome
- seeking an unrealistic outcome and persisting, although it cannot be achieved
- someone with a history of making other unreasonably persistent complaints.

16.3 When the relationship has become unworkable, the Complaints Manager together with the Director of Children and Families will consider the matter under the policy for Unreasonably persistent complaints at [Appendix B](#).

16.4 In a very small number of cases a complainant's behaviour may become unacceptable. The Council will take steps to protect staff from behaviour which is abusive in accordance with [Appendix C](#).

17 Cross Boundary complaints

17.1 A potential area of confusion can arise around boundaries between the council's responsibilities and those of other bodies delivering services on behalf of, or in partnership with, Children and Families. Examples are:

- Where domiciliary care is provided to a service user by a private agency
- Where a health service is delivered under Section 31 of the Health Act 1999.

- 17.2 In these cases, managers must be clear as to the appropriate action to take. There could well be cases where elements of a complaint need to be considered by Children and Families under this procedure (such as dissatisfaction with an assessment or design of care package) and others need to be considered by the service provider (such as quality of care, behaviour or attitude of the agency's staff). The Complaints Manager can advise in these cases. It will be the aim of Children and Families to provide a co-ordinated response wherever possible in such cases.
- 17.3 Complaints which relate only to a service regulated under the Care Standards Act 2000 will need to be referred, with the complainant's consent, to the relevant registered person.
- 17.4 Complaints which relate only to a service provided by an NHS body will need to be referred, with the complainant's consent, to the relevant NHS body.

18 Stages of the Complaints Procedure

There are three distinct stages through which a complaint may be progressed:

a) Stage 1 - Local Resolution

This stage is dealt with by a member of staff and/or line manager in the team /unit providing the services locally within **10 working days** with the aim of achieving resolution. A further extension of **10 working days** is possible if advocacy is required and with the agreement of the complainant.

- NB**
- i) a complainant is entitled to decline the stage 1 and go directly to Stage 2 at any time.**
 - ii) a complainant has the right to go to Stage 2 if the agreed timescale has elapsed for Stage 1 and a complainant has not received an outcome.**

b) Stage 2 - Investigation

If the complainant is not satisfied with the response at Stage 1, **or** if a complainant initially requests investigation **or** if a complainant has not received an outcome at Stage 1, an independent investigation will follow overseen by an Independent Person that produces an investigation report and an adjudication letter with remedy within **25 working days** (or within the extended period of **65 working days**). The Director of Children's social care services will adjudicate at Stage 2. A complainant must request a Stage 2 investigation within **20 working days** of receiving (or not receiving) a response at Stage 1.

c) Stage 3 – Review Panel

The complainant can request a review panel up to **20 working days** from receiving the Stage 2 adjudication letter. Ealing Council then has **30 working days** to convene an Independent Panel hearing to review the handling of the complaint to date. Within **5 working days** following the hearing, the Panel must make recommendations to the Executive Director of Individuals. The Executive Director must respond to the complainant within **15 working days** of receiving the Panel's report with any proposed action with reasons.

Appendix A - Policy on Persons who qualify as a person with sufficient interest

1 Introduction

1.1 If an individual seeks to complain about the discharge by the Authority of any of the Authority's functions under Part III of the Children Act 1989 (the Representations and Complaints Procedure for Children and Young People), he/she will qualify if in the following category:-

- a) The child, or a person complaining on the child's behalf. (Where the child wishes the person to do so and the child is of sufficient age and understanding to express the wish)
- b) A parent, or a person with parental responsibility
- c) Any Local Authority foster parent
- d) Such other person as the authority consider has a sufficient interest in the child's welfare to warrant his representations being considered by them.

1.2 The Children Act 1989 Representations Procedure (England) Regulations 2006 state that:

Where a Complainant **may be** a person with sufficient interest in the child's welfare, an officer of the Authority must consider whether or not to treat the person as having a sufficient interest - in which case the person is entitled to use the Representation and Complaints Procedure for Children and Young People - or to rule the person out of the Representation and Complaints Procedure for Children and Young People

2 Factors to consider when deciding whether a person qualifies as a complainant under 'sufficient interest' criteria.

2.1 The Department of Health guidance states: -

"The Authority must have a clear policy on this which takes into account the emphasis in the Act on the participation of those persons who are 'significant to the child' or who 'can make a positive contribution to planning for the child's future. The Authority should be flexible and should not obliged individuals to use other means"

3 Policy

3.1 Where a person seeking to make a complaint does not appear to qualify other than under the 'sufficient interest' criteria, then the manager who has been asked to deal with a complaint at the informal stage, must obtain the advice of the Complaints Manager at the earliest opportunity. Where the Complaints Manager receives a request to register a formal complaint at Stage 2 from a potential Complainant under this criteria, the Complaints Manager will establish whether the Complainant qualifies before registering the complaint.

3.2 In all cases where the Complaints Manager confirms that the question of 'sufficient interest' arises, the Complaints Manager, in consultation with his/her line manager, will consider the facts which should be taken into account, based on the guidance from the DfES set out above.

- 3.3 Where the potential Complainant is a close relative of the child, for example a grandparent, sibling, or aunt or uncle, then there will be a presumption that the potential Complainant is 'significant to the child' or 'can make a positive contribution to planning for the child's future'. A person may be 'significant to the child' because of their connection with the child, for example grandparents, even where they have had not prior involvement with the child.
- 3.4 The presumption will not stand where the relative could not make 'a positive contribution to planning for the child's future' because their prior behaviour has harmed the child or being detrimental to the child's best interests. The Customer Care Unit Manager will form his/her own view as to the impact of any prior behaviour on any positive contribution the potential Complainant could make, having regard to the views of the social worker for the child and any prior decisions of a court.
- 3.5 Where there is no presumption that the potential Complainant comes within the categories suggested by the Guidance, the Complaints Manager, in consultation with his/her line manager will exercise discretion with regard to the particular facts. The wishes and feelings of the child, his/her parents, those with parental responsibility, and foster parents, will be relevant facts. The potential Complainant should normally have been involved in the life of the child in some direct way, in order to be considered significant to the child. This could include those non-relatives with whom the child has, or previously had, regular contact. It could include earlier foster-Carers or friends of the family with whom the child has lived in the past.

4 The Decision

- 4.1 Any decision made by the Complaints Manager and his/her line manager will be communicated to the potential Complainant and the manager dealing with any Stage 1 complaint where relevant are informed.
- 4.2 Where the decision is that the potential Complainant does not qualify as a person with a sufficient interest in the child's welfare, then the Representations and Complaints procedure for Children and Young People will not be made available to them. However, the potential Complainant may still be eligible to make a complaint as a user or potential user of a service under the Corporate Complaints Procedure. The Complaints Manager will ask the Complainant if he/she wishes to continue with a complaint under alternative procedures.

Appendix B - Policy On Unreasonably Persistent, Frivolous Or Vexatious Complaints

1 Introduction

- 1.1 Ealing Social Care services are required to operate a statutory complaints procedure and are committed to dealing with all complaints fairly, impartially and confidentially and to providing a high quality service to those who make them. As part of this service, Ealing Social Care services would not normally limit the contact complainants have with their offices and/or staff.
- 1.2 In a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for Social Care services. These actions can occur either while the complaint is being investigated or once the complaint investigation has been concluded. These complainants are referred to as 'unreasonably persistent complainants'.
- 1.3 This policy aims to manage complainants considered to be 'unreasonably persistent' and to ensure that any decisions made pursuant to this policy are appropriate, proportionate and transparent where decisions are fairly and regularly reviewed and open to appeal.
- 1.4 This policy is intended to be used in exceptional circumstances only.

2 Decisions

- 2.1 Where a complainant is considered to be unreasonably persistent and following a prior warning to the complainant, Adult and Children's services will take action to limit their contact with Council offices and/or staff.
- 2.2 The decision to restrict a complainants access will be taken by the Executive Director of Adult and Children's services or the Chief Executive following a review of the evidence and all actions taken to assist the complainant in resolving the complaint reasonably.
- 2.3 Any decisions on how a complainant's access will be restricted will be done on a case-by-case basis, the options most likely to consider are:
 - Requesting contact in a particular form (e.g. letters only)
 - Requiring contact to take place with a named officer
 - Restricting telephone calls to specified days and times; and/or
 - Asking the complainant to enter into an agreement about their conduct.

3 Informing the complainant

- 3.1 In all cases where the Executive Director or Chief Executive decide to treat a complainant as unreasonably persistent, they will write to the complainant saying:
 - Why his/her behaviour falls into that category
 - What action is being taken
 - The duration of that action
 - How the decision can be challenged by him/her
 - When the decision will be reviewed.
 - Whether the complaint will be investigated further

- 3.2 Where a complainant whose case is closed persists in communicating about it, a decision may be made to terminate contact and the complainant informed of this. In such cases, the complaints manager will read all correspondence from that complainant but unless there is fresh evidence which affects the decision on the complaint, the complaints manager will simply acknowledge it or place it on the file with no acknowledgement.

4 New complaints

- 4.1 New complaints from people who have come under the unreasonably persistent complainants policy will be treated on their merits.

5 Information sharing

- 5.1 The decision to restrict a complainant's contact with the Council and reasons for this will only be shared with the complainant and those who need to know to effectively implement the restriction. The Executive Director for Adults and Children's services will approve those who would need to know.

6 Recording and Monitoring

- 6.1 The complaints manager will record all information relating to the complaint and the decision to restrict a complainant's contact.
- 6.2 The numbers of complainants to whom this policy has been applied and details of the restrictions applied will form a confidential part of the annual complaints report to scrutiny committee.

Appendix C - Policy On Unacceptable Behaviour

1 Introduction

- 1.1 Ealing Social Care services are required to operate a statutory complaints procedure and are committed to dealing with all complaints fairly, impartially and confidentially and to providing a high quality service to those who make them. As part of this service, Ealing Social Care services would not normally limit the contact complainants have with their offices and/or staff.
- 1.2 Ealing social Care services do not expect their staff to tolerate behaviour by complainants that is unacceptable, for example, which is abusive, offensive or threatening, and action will be taken to protect staff from that behaviour. This behaviour is referred to as unacceptable.
- 1.3 This policy aims to manage complainants considered to be 'unacceptable' and to ensure that any decisions made pursuant to this policy are appropriate, proportionate and transparent where decisions are fairly and regularly reviewed and open to appeal.
- 1.4 This policy is intended to be used in exceptional circumstances only.

2 Decisions

- 2.1 Where a complainant's behaviour is considered to be unreasonable and following a request to the complainant to change it, Ealing social care services will take action to limit their contact with Council offices and/or staff.
- 2.2 The decision to restrict a complainant's access will be taken by the Executive Director of Adult and Children's services or the Chief Executive following a review of the evidence and all actions taken to assist the complainant in resolving the complaint reasonably.
- 2.3 Any decisions on how a complainant's access will be restricted will be done on a case-by-case basis, the options most likely to consider are:
 - Requesting contact in a particular form (e.g. letters only)
 - Requiring contact to take place with a named officer
 - Restricting telephone calls to specified days and times; and/or
 - Asking the complainant to enter into an agreement about their conduct.

3 Informing the complainant

- 3.1 In all cases where the Executive Director or Chief Executive decide to treat a complainant's behaviour as unacceptable, they will write to the complainant saying:
 - Why his/her behaviour falls into that category
 - What action is being taken
 - The duration of that action
 - How the decision can be challenged by him/her
 - When the decision will be reviewed.
 - Whether the complaint will be investigated further

3.2 Where a complainant continues to behave in a way which is unacceptable, a decision may be made to terminate contact with that complainant and discontinue any investigation into their complaint.

3.3 Where the behaviour is so extreme that it threatens the immediate safety and welfare of any Council staff, other options will be considered such as reporting the matter to the police or taking legal action. In such cases, the complainant may not be given prior warning of the action being taken.

4 New complaints

4.1 New complaints from people who have come under the unreasonably behaviour policy will be treated on their merits.

5 Information sharing

5.1 The decision to restrict a complainant's contact with the Council and reasons for this will only be shared with the complainant and those who need to know to effectively implement the restriction. The Executive Director for Adults and Children's services will approve those who would need to know.

6 Recording and Monitoring

6.1 The complaints manager will record all information relating to the complaint and the decision to restrict a complainant's contact.

6.2 The numbers of complainants to whom this policy has been applied and details of the restrictions applied will form a confidential part of the annual complaints report to scrutiny committee.

Appendix D - Remedies Policy

1 Introduction

- 1.1 Section 92 of the Local Government Act 2000 ('payment in cases of maladministration' allows a 'relevant authority' to make a payment to an individual to compensate for that authority's own maladministration, if the authority think it appropriate.
- 1.2 This Remedies Policy only applies to justified complaints handled under statutory and corporate complaints procedures or by the Ombudsman where:
 - a) action taken by or on behalf of the authority amounts to or may amount to maladministration and
 - b) a person has been or may have been adversely affected by that action

2 Aims

- 2.1 To provide a means of resolving complaints at the earliest opportunity to the satisfaction of the complainant so as to prevent the unnecessary time, resource and cost implications of escalation to subsequent stages of the complaints procedures, Ombudsman or the courts.
- 2.2 That any remedy takes account of a complainant's individual circumstances but is provided within a framework which ensures:
 - fairness and equity
 - consistency of approach across all service areas
 - reasonably quick implementation
 - appropriateness and proportionality to the injustice
 - putting the complainant in the position they would have been in but for the maladministration and, if this is not possible,
 - providing a financial remedy within the framework of this policy and supporting guidance
- 2.3 To assist the complaints process in maintaining a customer focus and complying with its' timescales, this policy will allow for the payment of financial compensation for delays in dealing with a complaint beyond the stated target times.

3 Contractors

- 3.1 This remedies policy applies to all services whether provided directly by the Council or by contractors on the Council's behalf. The contractor will, therefore, be bound by this policy for any service they administer on behalf of the Council.

4 Exceptions

- 4.1 This Policy does not apply to:
 - matters subject to current legal action
 - any settlement of court proceedings
 - disputes about matters covered by the council's insurance policies
 - any settlement of an insurance claim

5 Remedies

5.1 The range of remedies covered by this policy is:

- Apology
- Provide a service
- Financial (refund or compensation)
- Review procedure
- Review policy
- Staff training or action

6 When a financial remedy should be considered

6.1 Financial payments will be considered where investigation of a complaint at stages 1, 2 or 3 of the complaints procedures or as part of an Ombudsman's investigation has concluded that:

- The Ombudsman would find that there has been maladministration by the Council causing injustice to the complainant; and
- The Ombudsman would recommend that compensation should be paid to the complainant

Appendix E - Policy Of Advocacy

1 Aims

- 1.1 The aim of providing advocacy is to support children and young people so that their views and wishes are heard and taken into account by decision-makers which is in accordance with the children and young people's participation strategy
- 1.2 Advocacy services will be provided to any child or young person directly making or intending to make a complaint on their own behalf about any service provided within Children's social care services.
- 1.3 Emphasis will be on problem solving leading to early resolution
- 1.4 Advocacy services must not be line managed by Children's services so as to ensure independence and transparency

2 Exclusions

- 2.1 Rights to children's advocacy do not extend to a parent or another person making a complaint on behalf of a child or young person

3 Legal Requirement

- 3.1 Section 119 of the Adoption and Children Act (2002) inserts a new section into the Children Act 1989. Section 26A requires local authorities to make arrangements for the provision of advocacy services for children and young people intending to make representations, including complaints, under the Children Act.
- 3.2 Details of this requirement is outlined in the Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004 alongside guidance on National Standards for the Provision of Children's Advocacy Services (2002) issued under Section 7 of the Local Authority Social Services Act. Both sets of guidance came into effect on the 1st April 2004.

4 The Role of the Advocate

- 4.1 The advocate will support a child or young person in presenting their views, wishes and feelings about plans and decisions about their lives and help them raise issues and concerns and assist them in seeking a satisfactory resolution as prescribed by the National Standards
- 4.2 The Advocate will help a child or young person make a complaint or representation under the relevant complaints procedure if they so wish
- 4.3 The advocate will have access to any records, relevant to the situation, to which the child or young person would have access

5 The National Standards

- 5.1 Advocacy is led by the views and wishes of children and young people
- 5.2 Advocacy champions the rights and needs of children and young people
- 5.3 All advocacy policies have clear policies to promote equality issues and monitor services to ensure that no young person is discriminated against due to age, gender, culture, religion, language disability or sexual orientation
- 5.4 Advocacy is well publicised, accessible and easy to use
- 5.5 Advocacy gives help and advice quickly when they are requested
- 5.6 Advocacy works exclusively for children and young people

- 5.7 The advocacy service operates to a high level of confidentiality and ensures that children, young people and other agencies are aware of its confidentiality policies
- 5.8 Advocacy listens to the views and ideas of children and young people in order to improve the service provided
- 5.9 The advocacy service has an effective and easy to use complaints procedure
- 5.10 Advocacy is well managed and gives value for money.

6 Principles

- 6.1 Advocacy information will be given to all children and young people who are in receipt of a service from the Children social care services. This will enable them to make a direct request for advocacy if they so wish.
- 6.2 Advocacy information should be offered at a child's or young person's first assessment. This action should be recorded on the pathway plan and reconsidered at reviews. (Review of Children's Cases (Amendment) Regulations 2004)
- 6.3 If a child or young person makes, or intends to make, representation, such as a complaint, Children's social care services will provide them with information about advocacy and offer them help to access a service especially when the child or young person:
- has serious concerns about their care or the services they are receiving
 - is seeking access to services to which they may be entitled
 - wants greater participation in decisions being made about their future
 - feels their views are not being heard
 - wish to challenge decisions being made about them
 - wish to make a complaint
- 6.4 Any person acting as an Advocate must comply with the National Standards for the Provision of Children's Advocacy Services with regards to principles, confidentiality, information sharing and commissioning and operate within national and local child protection guidelines.
- 6.5 Advocacy services must meet the diversity of needs of children and young people.
- 6.6 A child or young person can also choose an 'informal' advocate such as a relative or teacher. A child or young person should be encouraged to identify an advocate who would act in their best interests. However, guidance does not rule out people with a conflict of interest acting as an advocate. Should a conflict of interest exist, Children' social care staff should discuss with the advocate why he/she 'should not agree to take on the role'.
- 6.7 Any person acting as an 'informal' Advocate must be provided with advice and information in accordance with the National Advocacy Standards.
- 6.8 Children's social care staff will assist and work co-operatively with an advocate with the aim of seeking a resolution acceptable to the child or young person.

- 6.9 Annual reports on the operation of complaints procedures, statutory or otherwise, must include information on advocacy as follows:
- Statistical information on children who use advocacy
 - Arrangements for the provision of advocacy services and details of advocates
 - Take-up and refusal of advocacy
 - Satisfaction and perceptions of independence from children who use the service

7 Advocacy Services

- 7.1 An Advocacy Service is provided under an annual service level agreement by VOICE a national charity and by the Ealing Mencap Transition Project
- 7.2 VOICE and Mencap will accept a direct referral from a child or young person, parents and/or relatives, social workers, residential keyworkers, foster carers, other professionals and helplines. Referrals can be made by telephone, fax or letter.
- 7.3 VOICE and Mencap will inform the Complaints Manager of any requests for advocacy received by or on behalf of a child or young person accessing Children's social care services. This information is for monitoring purposes and should be kept confidential unless the person is under 16 years.
- 7.4 Children's social care staff will inform the Complaints Manager of any requests or referrals for advocacy received by or on behalf of a child or young person from Children's social care services

8 Confidentiality

- 8.1 All advocacy processes will comply with the Data protection Act 1998, the Human Rights Act 1998 and any agreed information sharing protocols
- 8.2 Where advocacy is requested for a child/young person under 16 years, Children's social care services will ensure that the person with Parental Responsibility is contacted and consent for advocacy is given before the advocate meets the child/young person.
- 8.3 In special circumstances, an advocate meeting with a child/young person may be sanctioned before the agreement detailed in 8.2 is given. This would occur when the child/young person is insistent that they need a chance to discuss it first or where Children's social care services or the contracted Advocacy Agency believe that delay may cause unnecessary distress or harm to the child/young person concerned.
- 8.4 In the circumstances outlined in 8.3, the person with Parental Responsibility would be contacted and notified of actions taken by Children's social care services or the Advocacy Agency as soon as is reasonably practicable.

9 Recording and Monitoring

- 9.1 The Complaints Manager will be responsible for recording and reporting information on advocacy as outlined in [6.9 of Principles](#).

10 Funding Advocacy

- 10.1 The VOICE advocacy service annual service level agreement is funded by children's services. There are additional case by case costs which are also met by children's services. This funding source will meet the advocacy costs of children and young people directly in receipt of children's services

- 10.2 Advocacy offered by the Ealing Mencap Transition Project is funded under a service level agreement and is free at the point of access and available to all young people aged 14+ eligible for services within the Children with Disabilities Pathfinder Trust.

11 Telephone numbers, post and e-mail addresses, fax numbers

VOICE

Unit 4, Pride Court, 80/82 White Lion Street, London, N1 9PF

Tel: 020 7833 5792

Fax: 020 7713 1950

e-mail: info@vcc-uk.org

Ealing Mencap Transition Project

73a Uxbridge Road, Hanwell, W7 3TH

Tel: 020 8567 9185

Fax: 020 8579 3719

e-mail:

Youth and Connexions Service

Ealing Council

Ground Floor, The Village, New Broadway, Ealing, W5 2YX

Tel: 020 8825 5777

Fax: 020 8825 5775

Complaints Manager

Customer Care Unit

Perceval House, 14/16 Uxbridge Road, London W5 2HL

Tel: 020 8825 8100

Fax: 020 8825 6643

e-mail: tuohyk@ealing.gov.uk

Further information

The Advocacy Services Representations Procedure (Children) (Amendment) Regulations 2004

Get it Sorted: Providing Effective Advocacy Services for Children and Young People make a Complaint under the Children Act 1989 Guidance 2004

National Standards for the Provision of Children's Advocacy Services

Reviewed April 2007