



Newham Council
Policy & Procedures

Children's Services Statutory (Children Act) Complaints Policy

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Purpose

The purpose of this policy is to provide guidance and expectations when investigating and resolving complaints or issues raised by children, young people, parents, those with parental responsibility, other advocates or representatives, in relation to activities and obligations the London Borough of Newham (LBN) has towards them under the requirements of the Children Act 1989, 2004.

Related Policies

Corporate Complaints Policy
Vexatious Complaints Policy

Reference Documents

“Getting the Best from Complaints”

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1 Introduction

Newham Council are committed to put **People at the Heart of Everything We Do**. We aim to provide effective and efficient services for every child or young person that either benefits from, or is in need of, our services.

If we make mistakes or fail to deliver these services **right first time** as expected, it is important that we acknowledge this, and learn lessons from what went wrong. We should take both immediate corrective actions, as well as make further service improvements to avoid a repeat of the situation or circumstance.

If a complaint is made, we will immediately accept and acknowledge as a complaint and work with the Children's Service to resolve the issue. Most complaints about the service will be progressed through the Statutory Children Act Complaints Procedure, and the first stage of that procedure has the aim of resolving and rectifying the matter at the earliest opportunity.

If in the course of considering a complaint, any officer who has cause to be concerned about the immediate welfare of a child or young person, should refer to the MASH team.

2 What may be complained about?

A Statutory Children Act complaint relates to the **actions, decisions or apparent failings of children's social services provision in relation to a child or young person**.

Section 26(3) of the Children Act provides that all functions of the local authority's (LA's) responsibilities in relation to statutory social service functions may be complained about, e.g.

- Unwelcome/disputed decisions
- Quality of service
- Delays in decisions/provision of service
- Delivery/non-delivery of a service
- Costs of service, including financial/payment issues relating to that service
- Staff attitude/behaviour/performance in relation to their duties
- Eligibility/assessment criteria
- Impact of policy on a child or young person

- Assessment, care management and review processes
- Matters relating to care and supervision orders
- Control of parental contact
- Applications for/duties in relation to Child Assessment Orders/Emergency Protection Orders (although not Court decisions connected to these)
- Quality/accuracy of reports provided to a Court (although not Court decisions themselves)
- Adoption services, assessments and decisions
- Support for Special Guardianship
- LA Foster Care provision

A limited number of complaints will be progressed through the **Corporate Complaints Policy**. This is likely to be the case when a complaint has no association with any statutory service in support of a child or young person, a complaint is made anonymously, or the matter complained about is outside the jurisdiction of the Children Act (e.g. special educational needs provision, if the child is not otherwise in LA care).

On receipt and acknowledgement of a complaint, the Complaints Officer will make an assessment of which policy applies. If the complaint is a 'non-statutory' complaint, refer to the **Corporate Complaints Policy**. If it is a 'statutory' complaint, continue to refer to this policy.

Both the Statutory Children Act Complaints and Corporate Complaints procedures are in line with and are ultimately arbitrated by the Local Government and Social Care Ombudsman (LGSCO).

3 Who can make a Statutory complaint?

- A child or young person in the LA's care, in need, or otherwise in contact with Children's Services, and the complaint relates to that contact
- Those with parental responsibility, natural parents, other family members, guardians or former guardians of such a child or young person
- A child or young person who has left care
- Foster carers, including those caring for children placed by independent agencies or private arrangements
- Special Guardians, and those within their care
- Adoptive parents, or those who wish to adopt
- An child or young person who is, has been, is to be, adopted
- Any other person who can be deemed as having sufficient interest in the child or young person's welfare to warrant the issues they raise being considered

If the complaint is received from a representative or advocate acting on behalf of another person, the Complaints Team will seek to confirm that the person being represented has agreed to be so, and the information put forward reflects their view.

If the Complaints Manager, after consultation with the relevant Children's Service management or professionals, considers that a representative or advocate acting on behalf of, or in relation to, another, does not have sufficient interest in the welfare of that person, the representative will be notified in writing and the complaint will not be taken forward.

4 Exceptions and Limitations

There are areas where we may be or limited or unable to investigate under the Statutory policy. If the complaint is outside of the jurisdiction of the statutory responsibilities of LBN, and is also unable to be considered under the corporate policy, the Complaints Officer will advise the complainant within 2 working days of receiving the complaint.

Here are the main examples of limitations or exceptions:

- We usually cannot consider events that occurred more than 12 months ago. This is in line with advice and guidance from the LGSCO. However, it is important to consider the individual circumstances and rationale for any delay in a complaint being made. For example, historic events or circumstances occurring when a child or young person was under the age of 18, may have prevented a complaint being raised. If there is not enough information available to reach a considered conclusion, we will explain what limited conclusions we can or cannot make, and assist the complainant by passing all relevant information to the LGSCO, should they wish to have the case considered further.
- We may not be able to consider matters for which there is another statutory appeal or arbitration process in place. This includes Child Protection proceedings.
- We may not be able to consider matters subject to legal, court, disciplinary or tribunal proceedings.
- We cannot consider employee, prospective employee or former employee complaints about terms and conditions or other employment or recruitment matters.
- We cannot consider matters subject to an insurance claim

- Complaints about schools should be first directed to the school. They should provide details of their relevant complaints procedure.
- Complaints or appeals about school admissions decisions have their own statutory process and so are not to be considered under this policy, nor are likely to be considered under the corporate policy.
- Unless there are any limited circumstances in the case that relate to the Council's responsibilities under the Children Act, complaints relating to decisions about Special Education Needs (SEN) or Education and Health Care Plans (EHCPs) or other LBN-led educational provision, e.g. school transport provision, will either be considered under any relevant appeals or tribunal process, or by the **Corporate Complaints Policy** if the complaint relates to the delivery or administration of a process or service.
- We may place limitations on persistent or vexatious complainants. See the **Vexatious Complaints Policy**.
- If the complaint involves other bodies working in partnership with LBN, the partners will liaise to determine and agree which organisation's complaint procedure the complaint should be considered by, and how the investigation is led and concluded.
- Unless the decision of a previous complaint is being reviewed through the next stage of the complaints procedure, a complaint previously investigated cannot be investigated twice at the same stage.

5 Contacting Us

Children and young people are entitled to raise their own complaint about Children's Services, irrespective of their age or situation. To enable their voice to be heard, they should always be offered access to an appropriate, independent and qualified advocacy service if they need it. Often, others make a complaint on their behalf, and they too should be offered support from an advocacy service if it would assist conveying the matters concerned.

Newham Children's Rights Service is a council funded, but independent, resource for children and young people to get advice, guidance and support. They can facilitate engagement with the service directly to obtain support or advocate for a child or young person to make a complaint.

They can be contacted at:

Newham Children's Rights Service, 134 Church Rd, London E12 6HL. 07909906954
childrensrights@newham.gov.uk

Children and young people need to easily be able to access information that explains to them both that they can, and how to, complain. They can:

- Go to www.newham.gov.uk and navigate to Complaints section in the A-Z
- Email corporate.complaints@newham.gov.uk
- Post - **Complaints Team, London Borough of Newham, PO Box 71568, London, E6 9LQ**
- Call on 0208 430 2000, and ask for the Complaints Team,
- Use textphone/minicom 18001 020 8430 2412
- Meetings in person in a private space can be arranged, at an appropriate building e.g. a Community Neighbourhood Centre. If appropriate, a Home Visit may be made. It would be necessary to ensure and arrange appropriate support or representation for the child or young person, and/or enable their own representation to attend, as required.

Any communication or physical barriers to access should be adjusted to support the ability of the complainant to tell us their issues or concerns. This could include, but is not limited to, translation services, and alternative communication methods, such as braille, and ensuring disabled access to appropriate meeting places, etc.

All the above methods of contact and support to do so, also applies to any adult complaining on a child or young person's behalf as well as any adult directly making a complaint about the actions of the Children's Service.

In line with advice and guidance from the LGSCO, all complaints should be treated fairly and equally, no matter the route by which they arrived. Any urgency or priority should be judged on the merits of the case itself.

On occasion, a service user may use the Complaints route to raise an issue about which they have not yet approached the service. In this event, the Complaints Officer may offer guidance and signposting to available assistance and support.

6 Complaint Handling and Timescales

Regardless of the route or method of the complaint, we will assess and acknowledge by the next working day after we received the complaint, to decide whether it is:

- An **Enquiry or Service Request** – A proportion of demand may not be classed as a complaint if the clear intention of the contact was to make a query or find the best route to information or support. The Complaints Officer will either advise, direct to appropriate help, or acknowledge and forward to the relevant service area. The correspondence will be captured for future reference.
- A **Representation** - a person may not be making (or wish to make) a complaint, but may be seeking help or assistance in resolving an issue that they have with the service. The Complaints Officer will liaise with the service to seek an early resolution to the issue. If there have been errors in service, these will also be captured to ensure learning and improvements take place. Representations will be captured and presented alongside our overall complaint numbers.
- A **Stage 1 Corporate Complaint** – if, as described in sections 2, 3 & 4 above, a complaint is out of scope of the Statutory procedure, but within scope of the corporate procedure, progress under the **Corporate Complaints Policy**.
- A **Stage 1 Statutory Complaint** – if a complaint investigation is required, or requested by the complainant themselves, a formal complaint will be taken and a response provided within **10 working days**. After investigation, the complainant's case will be Upheld, Not Upheld, or Partially Upheld. Where something has gone wrong we will explain what will be done to put things right and/or what lessons will be learned. If the complainant does not agree with the result, the matter can be requested to be reviewed under the **Stage 2 Statutory Complaint** procedure.

When received, a Stage 1 Statutory Complaint is assigned to the relevant service area by a Complaints Officer. The complaint is investigated by the Practice Lead or Service Manager of the service concerned. The draft response is reviewed and quality checked by the Complaints Officer, before approval by the relevant Head of Service. The Practice Lead or Service Manager will then respond to the complainant and also inform the Complaints Officer on the actions or improvements the service is to undertake to avoid a similar event or circumstance.

The specific learning and follow-on improvement actions are captured alongside the complaint by the Complaints Officer so that management information can be produced to enable the Children's Service to monitor and assess progress.

If there are any potential delays to the investigation, due to the complexity of the matters under consideration, and/or the availability of representatives, advocates or others, the relevant Head of Service may make a decision to

extend the case to **20 working days**. The Complaints Officer will keep the complainant informed of any extension and explain the rationale appropriately.

(Some outcomes to a Stage 1 Statutory Complaint may be that another statutory process be followed or formal review of an assessment or decision be made. If the complainant agrees to that decision, but are then unhappy with the conclusion of the relevant review process, the appropriate next step would be through the review process's appeal procedure, not through Stage 2 of the Statutory Complaint procedure.)

- A **Stage 2 Statutory Complaint** – if a complainant does not agree with a Stage 1 Statutory Complaint response, a Stage 2 investigation may be requested. The request should be made in writing by the complainant or their representative, and should explain what aspect(s) of the complaint have not been addressed, and the specific outcomes sought.

A Stage 2 investigation will aim to be completed within **25 working days**, however if there are justified difficulties in achieving this, e.g. multiple agencies are involved, the unavailability of witnesses or other specific complications, the Complaints Manager may agree an extension of the investigation up to a maximum of **65 working days**. Wherever possible, extensions should be limited, and mutually agreed with the complainant. A Complaints Officer will maintain dialogue with the complainant to keep them informed of any potential delays or extensions so that their feelings can be taken into full account.

If a Stage 2 investigation is initiated, an appropriate and experienced Investigating Officer (IO) is appointed either from outside of LBN or from within, but only if they do not sit within the line management of the service or person being complained about (and have not for 3 years).

The IO will investigate and provide a written report on findings, along with any recommendations to put things right for the complainant or person(s) concerned, along with any service improvements that should be carried out. They will also recommend which aspects of the complaint be Upheld, Not Upheld, or Partially Upheld.

An Independent Person (IP) will also be appointed from outside LBN (if a former employee at least 3 years must have elapsed since their employment), to monitor the investigation, review the IO's findings and confirm if in agreement, or otherwise provide rationale as to why the investigation or conclusions may be unfair or incomplete. The IP must have access to all of the same documents as the IO and participate in all meetings, interviews or discussions that the IO is involved in.

Both the IO's and the IP's findings will be made available to the complainant or their representative at the end of the investigation.

The Head of Service has the role of Adjudication Officer for the complaint – they review the IO and IP Reports, and produce an Adjudication Report. This will

confirm the Council's position on the findings of the investigation and any recommendations that will be taken up and relevant actions and timescales. The Adjudication Report is provided to the complainant and/or representative within **10 working days** of the receipt of the Investigation Report.

- A **Stage 3 Panel Review** – If they remain dissatisfied, the complainant has **20 working days** following the receipt of the Adjudication Report to request further review.

A **Review Panel** is formed to assess the quality of the Stage 2 investigation. The panel is comprised of three independent and experienced people, including a chairperson. The Chair is appointed by the Complaints Manager. The panel cannot be current employees or Members of LBN, nor have been in the last 3 years. They also cannot have been involved in the case at Stage 1 or Stage 2.

The panel must be held **30 working days** after requested by the complainant. The complainant and/or their representative have a right to attend and speak at the panel. If the complainant/representative fails to attend, the hearing can take place in their absence.

The panel can only review the decisions and recommendations from the Stage 2 conclusions. The panel cannot consider any new complaints that did not form part of the Stage 2 investigation. The panel can, however, make new or additional recommendations. The panel will produce a report of their findings and recommendations within **5 working days**.

The relevant Head of Service (Adjudication Officer) will review the Panel report and produce an Adjudication Report and confirm any actions to the Complaints Manager and Director of Children's Service and timescales for carrying these out, and within **15 working days** (of receiving the Panel report provide the Council's final response to the complainant.

If the complainant remains unhappy after the Panel Review they may approach the LGSCO to consider the matter.

7 The Ombudsman

The LGSCO can consider a complaint at any time, however they are unlikely to do so unless the complaint has progressed through every stage of the Statutory (or Corporate, if relevant) Complaints procedure.

The details of the LGSCO will be provided at the closing part of the Panel Review Adjudication response. The Council can be bound by the Ombudsman's decision. They can direct remedial action and compensation to be paid in many cases.

8 Learning from Complaints

Complaints are opportunities to put things right, learn lessons to avoid something similar happening again, or as a catalyst to make other service improvements.

In the resolution of a complaint, there will almost always be **Recommendations and Actions** for improvement to be agreed upon with the service, with follow-on actions that can be put in place, and monitored.

If this is the case, the Complaints Officer will ensure that these recommendations are captured at the conclusion of each stage of the complaint process, along with the actions and timescales the service will adhere to.

These recommendation and actions will be consistently monitored in Quarterly service partnership meetings between Resident Services and Children's Services, to track actions and improvements.

9 Compensation

In some circumstances, as part of the conclusion of a complaint, the Complaints Team will direct the service that compensation or a goodwill payment be paid. This will be a careful, considered decision limited to the merits of the case where there has been clear service failure, delay, injustice, effect or costs incurred. While monetary value cannot be clearly defined for all cases, it can be seen as symbolic of the effect on a person(s), and is also highlighted in regular reports to directorates, so is another impetus to reduce the 'cost' of complaints.

The Council considers appropriate remedies taking into account clear advice and guidance on this area from the LGSCO.

10 Complaints Process

