

AGENDA MANAGEMENT SHEET

Name of Committee Cabinet

Date of Committee 12th October 2006

Report Title **Warwickshire's Social Care Complaints and Representations Policy and Procedures for Adults and Children Young People and Families**

Summary The policy and procedures update and develop the previous social services complaints and representations procedures. They are designed to comply with new Regulations and Section 7 Guidance from DoH and DfES, and to support the Council's commitments under the Customer service and Access Strategy 2006/9.

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Would the recommended decision be contrary to the Budget and Policy Framework? [please identify relevant plan/budget provision] No

Background papers

- The Representations Procedures (Children) Regulations 2006
- Getting the Best from Complaints, DfES 2006
- Local Authority Social Services Complaints (England) Regulations 2006
- Learning from Complaints, DoH 2006
- Warwickshire Social Services Representations and Complaints Procedures, last updated 2002

CONSULTATION ALREADY

UNDERTAKEN:-

Details to be specified

Other Committees

- Adult and Community Services Overview and Scrutiny Committee
Children, Young People and Families Overview and Scrutiny Committee

- Local Member(s)
- Other Elected Members Councillor S Tooth, Councillor Mrs J Dill-Russell, Councillor Mrs J Compton, Councillor Mrs M Haywood, Councillor P Fowler, Councillor M Singh, Councillor D Shilton, Councillor Mrs A Forwood, Councillor Mrs N Knapman, Councillor J Roodhouse, Councillor J Burton, Councillor F McCarney, Councillor R Grant (CYP&F O&S Chair)
- Lead Cabinet Member Councillor Izzi Seccombe (senior members briefing 11 September 2006)
Councillor Colin Hayfield
- Cabinet Member
- Chief Executive
- Legal Alison Hallworth, Jane Pollard, Victoria Gould
- Finance David Clarke, Strategic Director of Resources – comments incorporated in the report
- Other Chief Officers
- District Councils
- Health Authority
- Police
- Other Bodies/Individuals GMB, UNISON, Service user and carer consultation group, young people consultation groups, staff at all levels in each Directorate, complaints professionals across Council and Health, local MPs

FINAL DECISION YES

Cabinet – 12th October 2006

Warwickshire's New Social Care Complaints and Representations Policy and Procedure for Adults and Children

Report of the Strategic Directors of Adult Health & Community Services, Children, Young People & Families, and Performance and Development

Recommendations

- The Cabinet endorses the draft policy and procedures
- The Cabinet notes that an Equality Impact Assessment has been undertaken and the recommendations from this have been considered

1. Background

1.1 These policy and procedures update and develop the previous Social Services complaints procedures. The Adult Social Care Complaints and Representations Policy and Procedures are intended to comply with the requirements of the Local Authority Social Services Complaints (England) Regulations 2006, laid before Parliament 29th June 2006, and the Section 7 guidance "Learning from Complaints" from the Department of Health 2006, issued 2nd August 2006. The Children's Social Care Complaints and Representations Policy and Procedures are intended to comply with the requirements of the Representations Procedure (Children) Regulations 2006, laid before Parliament 7th July 2006, and the Section 7 guidance "Getting the Best from Complaints" by the Department for Education and Skills 2006, issued 2nd August 2006. The regulations came into effect on 1st September 2006.

1.2 The Adult Procedures will enable adults, or people acting on their behalf, to challenge the social care functions undertaken by the Council's Adult, Health and Community Services Directorate under:

- Section 1A of the Local Authority Social Services Act 1970
- Section 31 of the Health Act 1999.

The Children's Procedures will enable children and young people, their parents, families, foster carers and other relevant people, to challenge the social care functions undertaken by the Council's Children, Young People and Families Directorate under:

- Part III, IV and V of the Children Act 1989, and powers and duties set out in Part 1 of Schedule 2

- The Children (Leaving Care) Act 2000
 - The Adoption and Children Act 2002
 - The Adoption Support Services Regulations 2005
 - The Adoption Agency Regulations 2005
 - The Adoptions with a Foreign Element Regulations 2005
 - The Special Guardianship Regulations 2005
- 1.3 It will also enable the Council to make effective use of positive and negative feedback about its current services, improve customer satisfaction levels, and ensure effective organisational learning and customer impact on service development and planning.
- 1.4 In view of the government's considerable delay in finalising the Regulations and Guidance, and the need to implement the Regulations on 1st September 2006, the Adult, Health and Community Services Directorate and the Children, Young People and Families Directorate, are working from these new draft policy and procedures, pending Cabinet approval.
- 1.5 Every effort has been made to try to keep the policy and procedures as close to each other as possible, despite slightly differing Regulations and Section 7 Guidance. This is to ensure consistent messaging and approach to complaints handling wherever possible.

2. Aims and Objectives

- 2.1 The focus of the new policy and procedures is to:
- Actively encourage compliments, suggestions, complaints and policy representations about social care services
 - Work with adults and people acting on their behalf to provide quality services to meet their needs
 - Work with children and young people, parents, carers, families, foster carers and other relevant people to provide quality services to meet their needs
 - Find out when things have gone well and customers are happy
 - Improve our services by making the most of bright ideas or comments about our services
 - Find out when things go wrong and put them right
 - Learn from our mistakes and make sure they do not happen again.
- 2.2 The outcomes we are aiming for are:
- A strong pro-active problem-solving culture
 - Customers who feel empowered and enabled to challenge decisions, question service quality and its appropriateness
 - Bad practice deterred
 - Good practice validated and promoted
 - Opportunities to learn and improve our services
 - Influence on the Directorate's planning, resource allocation, quality assurance and service improvement

- 2.3 It has been designed to support and develop the key Council commitments in the Customer Service and Access Strategy 2006-09:
- Efficient, effective and customer-focused processes
 - Customer-driven technology
 - Localised services and solutions
 - Empowered, committed and customer-focused staff
 - Working in partnership with all public service providers in Warwickshire

3. Consultation with Key Stakeholders

- 3.1 The government held a national public consultation event in October 2004 – “Learning from Complaints”, followed by further detailed consultation with a broad range of stakeholders including adults and carers from a variety of client groups, complaints professionals, the National Complaints Officers Group, the Commission for Social Care Inspection, voluntary organisations, the Local Government Ombudsman, the Local Government Association and the Association of Directors of Social Services. This informed the development of the Regulations and Section 7 Guidance published in 2006.
- 3.2 Locally, this Council held a series of consultation events with key stakeholders during February – September 2006:
- Users and carers
 - Young People
 - Complainants
 - Staff at all levels
 - Councillors
 - Other Complaints Professionals
 - Unions
 - Legal Services
- 3.3 In addition, a full internal review was conducted by an external consultant in February 2005, and a feasibility study on developing mediation within the complaints process was conducted by Mediation at Work in January 2005.
- 3.4 Key themes from local consultation included:
- Customers and staff want to be able to resolve concerns at a local level, and feel more can be done to support this
 - Making complaints is stressful and customers need more advice and guidance on how they can be supported to do this
 - Staff need help to signpost and support customers effectively
 - Dialogue with customers whilst complaints are being investigated is critical to their understanding of the process
 - Confidence in the process can only be achieved if customers and staff see real changes resulting from complaints and suggestions, and the Council can really demonstrate that it has listened, learnt and acted to improve services.
- 3.5 The new policy and procedure reflect these key themes. More work is being done to develop specific practice guidance material for all staff, as part of an enabling approach to shifting the culture and capacity of our workforce to

deliver the sort of complaints service our customers want – see Appendix 3 to the Procedures for details of the range of practice material under development. The current publicity and leaflets for the representations and complaints service are also under review to ensure they reflect both the changes in the new Regulations, the themes from local consultation, and the increased focus of this Council on improving customer access.

- 3.6 The draft policy and procedures have been considered and commented on by the Children, Young People and Families Overview and Scrutiny Committee, the Adult, Health and Community Services Overview and Scrutiny Committee, and the Children, Young People and Families Senior Members Group. Both Committees have endorsed the policy and procedures draft documents. A small working group of Members is being pulled together to consider different ways in which Members might have a more defined role in the complaints and representations process, given that their involvement as Stage 3 Review Panel members is now at an end.

4. Equality Impact Assessment

- 4.1 Equality Impact Assessments help the Council to drive forward the equalities agenda locally and with our partners. The benefits of impact assessments include:
- Helping to identify whether we are excluding certain groups from our policies/services; helping to identify any unmet need
 - Helping to identify direct or indirect discrimination
 - Assisting us in considering alternative policies or measures or other ways of providing a service that might address any adverse impact
 - Helping to mainstream equality into our policies and practices
 - Helping us to target resources more effectively
- 4.2 An Equality Impact Assessment has been completed on the new policy and procedures. Further Equality Impact Assessments will be conducted on the accompanying Protocols and Practice Guidance.
- 4.3 The key development point this process has identified is the need for the Council to improve access for customers, and particularly vulnerable or hard-to-reach groups, to relevant local advocacy, advice, support and mediation services. This is a significant enabler for our customers to access our services, and particularly to pursue concerns or complaints. It is also a significant problem for staff when they are unable to successfully identify sources of support, which may well result in early and unnecessary breakdown in working relationships with customers, and increased pressure on local teams.
- 4.4 Over the next 3 months action will be taken to scope the potential deficit, and identify ways to systematically and consistently improve this area, and in the following 9 months proposals will be made and action will be taken to achieve this improvement.

5. Impact of Key Changes

5.1 The new Regulations and Section 7 Guidance reflect much of our existing Council social care practice about the way we currently handle children and families social care complaints. The most significant statutory changes are:

- 1 year time limit for making a complaint
- Powers to take action against vexatious complainants
- Extension of the scope of procedures to enable complaints to be made about care and supervision orders, parental contact, child assessment orders, and emergency protection orders
- Extension of scope to include a number of adoption-related functions
- Extension of scope to special guardianship support services
- Adjudication meetings between complainants and senior managers at Stage 2
- Changes to Review Panel process

5.2 Of these, the most significant impact is upon the Stage 3 Independent Review Panel process. The new adult Regulations require a minimum of 2 Independent People on the Panel. However, in order to ensure consistent administrative functions the decision has been made that the Panel will now consist of 3 Independent People, to meet the requirements within the children's social care complaints Regulations. An Independent Person cannot be a current employee of the Council, or a spouse or civil partner of an employee, or a member of the Council. At least 3 years must have elapsed before former Council staff can be considered eligible to act as Independent People. The Chair Independent Person will have an active role in assisting the Customer Relations Team in the organisation and running of the Panel. This will include:

- The appointment of other Panel members
- Deciding what information should be presented to the Panel
- Deciding which officers should attend the Panel
- Considering and meeting the specific needs of the complainant wherever possible
- Chairing the Panel
- Managing the Panel's deliberations
- Producing the recommendations of the Panel
- Meeting with Council staff as necessary after the Panel to discuss any recommendations arising

5.3 There is a national shortfall of people prepared and appropriate to act as Independent Persons, which is reflected locally. This means that the Council needs to take action to secure the services of existing Independent People and source the recruitment and retention of new Independent People. Action is underway to develop collaborative arrangements with border authorities, Coventry and Solihull, to meet the local shortfall and organise local recruitment and training.

5.4 To secure the right calibre of person, and to recognise the increase in scope and frequency of these duties, it is untenable to continue not to pay for this valuable service. Discussions are underway to determine an appropriate flat-

rate level of payment. This will have a resource implication, but this should be relatively small because we historically have few Panels each year. There is no additional funding being provided by the government to cover these additional costs, which are expected to be met locally.

6. The National and Local Context

- 6.1 The Department of Health has launched a consultation and development programme called Individual Voices for Improvement (IVI Project), which is responsible for the delivery of an integrated social care and health complaints procedure by 2009. (This is a White Paper commitment expressed in 'Our Health, Our Care, Our Say'). It is therefore likely that significant changes will need to be made again to this Council's social care representations and complaints procedure in 3 years time.
- 6.2 Changes may also result from the migration of children's service regulation from CSCI to the new Ofsted by 2007.
- 6.3 The national drive towards increasing integration of services to provide a more holistic approach to meet the needs of adults is being reflected in the changed working relationships and structures within the Adult, Health and Community Services Directorate. Integrated services present challenges to statutory procedures which have not "kept up" with the reality of working "on the ground", and prevent having one consistent approach. Consequently, this Council's social care representations and complaints policy and procedures have been developed to enable as much as possible the provision of seamless front-end services for customers receiving service packages which include social care, while we wait for the legislation to catch up.
- 6.4 The Customer Relations Team has now migrated into the Performance and Development Directorate, under the Head of Customer Service and Access, and have taken responsibility for the management of the corporate complaints procedures. This re-alignment will hopefully ensure the Council can continue to develop local arrangements and agreements which will reinforce both customer focus and partnership working, and enable synergistic alignment of complaints processes across the Council to promote seamless front-end services in an increasingly integrated working environment. Given the expected small cost of the proposals, any costs can be met from within existing resources of the Adult, Health & Community Services and Children, Young People & Families Directorates at the current time.

7. Key Documents for Consideration

Attached to this report:

- Summary of Key Points in Regulations (**Appendix 1**)
- Summary of Complaint Investigation Process (**Appendix 2**)
- Draft Policy and Procedures (**Appendices 3 and 4 – attached for Cabinet Members only** – the documents can be viewed in the Group Rooms, on the Committee Administration System and on the Warwickshire Web)

Available for Inspection **(in Group rooms)**:

- Equality Impact Assessments
- 2006 Regulations
- Section 7 Guidance
- Draft working Protocols:
 - Handling Complaints with Disciplinary Issues
 - Handling Complaints about Regulated Residential and Domiciliary Care Service Providers
 - Complaints about Processing of Personal Information
 - Handling Complaints about Child Protection
 - Interaction between Complaints and Family Proceedings
 - Complaints and Allegations: Foster Carers
 - Advocacy Services for Children and Young People
 - Coordinating Complaints Responses across Social Care and NHS bodies in Coventry and Warwickshire
 - Ensuring Reasonable, Appropriate and Proportionate Use of Complaints Procedures

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September 2006

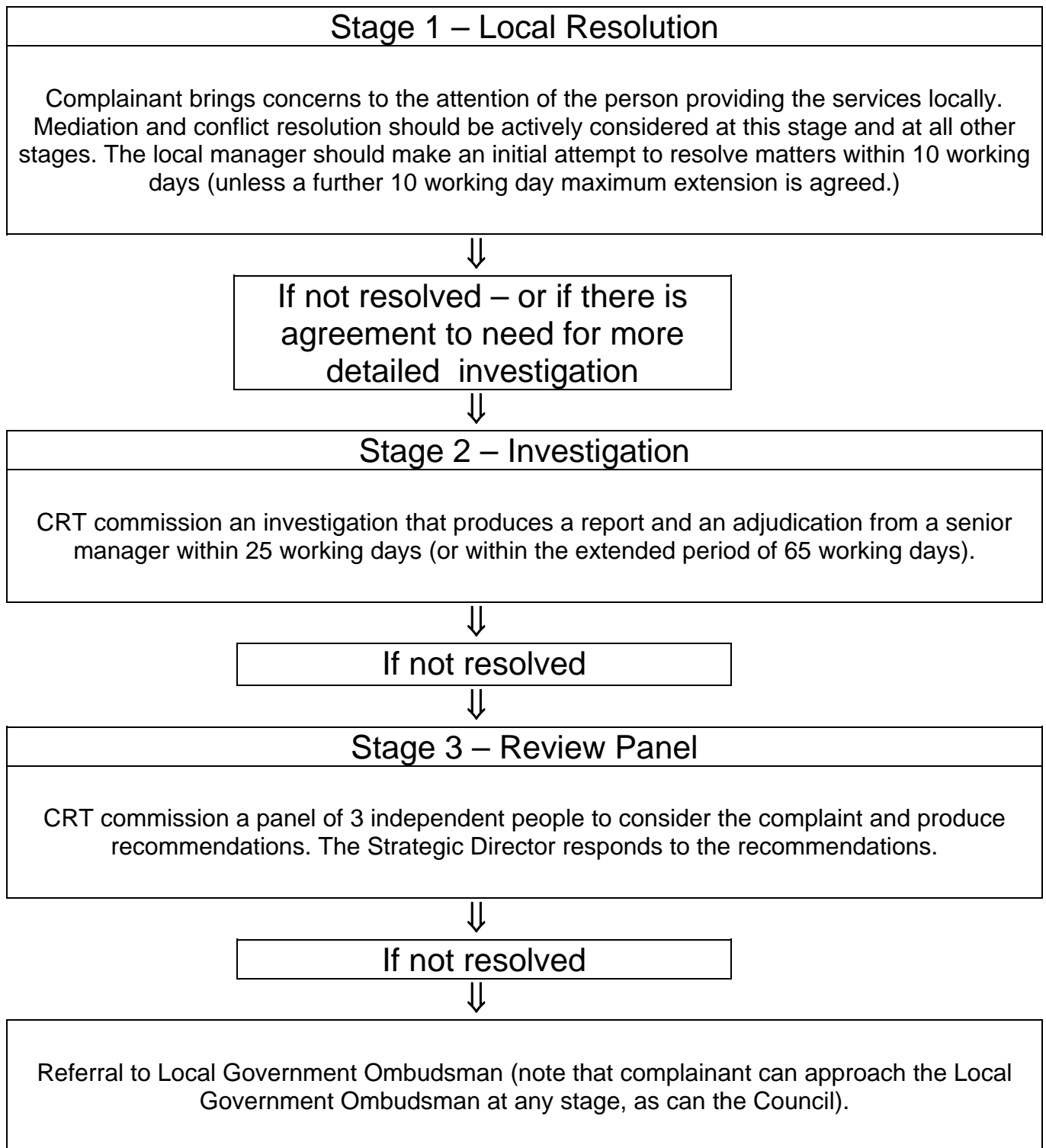
Summary of Key Points in Children's Regulations

- Designated Complaints Officer is re-named Complaints Manager
- 1 year deadline for complaints to be made after incident
- Extension of the scope of procedures to enable complaints to be made about care and supervision orders, parental contact, child assessment orders and emergency protection orders
- Extension of scope to include a number of adoption-related functions
- Extension of scope to special guardianship support services
- Stage 1: 10 working days response with a 10 working day extension if agreed by complainant
- Movement direct to Stage 2- Complaints Manager has final say over decision to proceed directly to stage 2
- Complaints Manager must offer to move to stage 2 if time period has elapsed.
- 20 working days to move to Stage 2
- Stage 2 timescales starts when details of complaint and desired outcomes are written down and agreed.
- Retain freedom to choose Investigating Officer (internal or external)
- Complaints Manager must appoint an Independent Person for complaints from young people at Stage 2
- Stage 2 timescales- 25 working days, extension to 65 working days (including investigation and adjudication)
- Adjudicating officer (Senior Manager) to liaise with Complaints Manager in drafting adjudication (i.e. letter to complainant after receiving Stage 2 report)
- Adjudication meeting to explain outcome of complaint and actions proposed to complainant with adjudication officer and other relevant parties (either before or after adjudication decision has been made)
- Adjudicating Officer sends investigation report with response to complainant
- Review Panel must be requested within 20 working days
- Review Panel continues to remain Council responsibility. However, it has a more precise and focused brief on constituting and running them. And there must be 3 Independent People
- Option of alternative early referral to L.G.O. if complaint upheld and it is a question of "remedy" which LGO can advise upon
- We can continue to investigate even after complainant has withdrawn should we feel this is appropriate
- Diversity – monitoring of ethnicity etc of complainant as well as service user required
- Annual reporting to Committee, staff, the regulator, and general public
- Freezing/deferring decisions – can happen after detailed discussion and risk assessment by Complaints Manager and Operations Manager – presumption should be in favour of deferring
- Concurrent complaint investigations with Health – Stage 1 can be done jointly, Stage 2 and 3 can't
- Complaints Manager can restrict access to vexatious complainants

Summary of Key Points in Adult Regulations

- Designated Complaints Officer is re-named Complaints Manager
- 1 year deadline for complaints to be made after incident
- Stage 1: 10 working days response with a 10 working day extension if agreed by complainant
- Movement direct to Stage 2- Complaints Manager has final say over decision to proceed directly to stage 2
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- Adjudicating Officer sends investigation report with response to complainant
- Review Panel must be requested within 20 working days
- Review Panel continues to remain Council responsibility. However, it has a more precise and focused brief on constituting and running them. And there must be at least 2 Independent People
- Option of alternative early referral to L.G.O. if complaint upheld and it is a question of “remedy” which LGO can advise upon
- We can continue to investigate even after complainant has withdrawn should we feel this is appropriate
- Diversity – monitoring of ethnicity etc of complainant as well as service user required
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SUMMARY OF THE NEW PROCEDURE FOR WCC ADULT AND CHILDRENS SOCIAL CARE REPRESENTATIONS AND COMPLAINTS



DRAFT



**Warwickshire Social Care Complaints and
Representations Policy & Procedures for Adults**

**LOCAL AUTHORITY SOCIAL SERVICES COMPLAINTS (ENGLAND)
REGULATIONS 2006**

**HEALTH AND SOCIAL CARE (COMMUNITY HEALTH AND STANDARDS) ACT
2003**

CARE STANDARDS ACT 2000

LOCAL AUTHORITY SOCIAL SERVICES ACT 1970

**Karen Smith
Customer Relations Manager
September 2006**

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SECTION 1 POLICY

Warwickshire County Council Policy about Compliments, Suggestions and Complaints regarding its Social Care Services for Adults

1.1 Introduction

1.1.1 Warwickshire County Council actively encourages compliments, suggestions, complaints and policy representations about its social care services. We want to work with service users, parents, carers, families and other professionals to provide quality services to meet their needs.

1.1.2 To do this we must:

- Listen to people carefully.
- Take their views seriously and act on them.

1.1.3 We need to:

- Find out when things have gone well and customers are happy.
- Improve our services by making the most of bright ideas or comments about our services.
- Find out when things go wrong and put them right.
- Learn from our mistakes and make sure they don't happen again.

1.2 Encouraging compliments

1.2.1 The Council wants to hear from people when we get things right. This helps us to:

- understand what services people value and why
- share best practice
- make sure we learn and develop in a way which keeps providing a good service to our customers
- recognise and reward when our staff “go the extra mile”

1.3 Encouraging suggestions

1.3.1 We believe that listening to our customers' suggestions helps us to improve the way we do things. We welcome any suggestions about how we might do things differently or better, and are committed to taking seriously any suggestions for service improvements.

1.4 Encouraging complaints

1.4.1 A healthy working relationship with service users and their carers will include customers feeling able to challenge decisions and actions they do not understand or perhaps disagree with.

1.4.2 Our service users and their carers may find it difficult to talk about their views or concerns. They may:

- be worried that complaining will lead to a reduction in services or “repercussions” from staff providing an important service to them
- find it difficult to speak out because of things like how their disability affects them, their level of communication skills, their racial, cultural or religious background or their age, gender or sexual orientation.

1.4.3 The Council wants all our customers to feel confident that their views will be taken seriously, and that there will be no “repercussions” if they need to raise genuine concerns.

1.5 Encouraging representations against policy

The Council wants to know when people disagree with the way it has interpreted the legislation, directions, guidance and advice it follows in respect of social care services, which the Council has a duty or power to provide. The Council may also make other policy decisions about social care services, which people wish to challenge.

1.6 Developing procedures to support our compliments, comments, complaints and representations policy

1.6.1 Our procedures are designed to:

- Protect vulnerable adults from abuse and lack of care
- Confirm the right of customers to make a complaint and to disagree
- Enable those denied a service to challenge that decision
- Allow customers or their representatives to complain about the quality of service
- Ensure that complaints or suggestions are acted upon
- Provide extra feedback from our customers on the quality and appropriateness of our services
- Inform planning, resource allocation and quality assurance mechanisms.

1.6.2 The Council will co-ordinate this through a specialist management service, the Customer Relations Team, which will

- Empower our service users and their representatives to challenge decisions, and question service quality and appropriateness
- Influence planning, resource and allocation and quality assurance mechanisms, and strengthen organisational learning
- Encourage a strong proactive problem solving culture within the social care services
- Deter bad practice
- Validate and promote good practice
- Provide public accountability for the actions of Warwickshire social care services.

1.7 Enabling Customers to Challenge Social Care Services

1.7.1 Access

All those who receive a social care service from the Council, including those who, following an assessment, are not considered eligible for a service, will be given information about how to compliment, comment on, complain about or make a policy representation about that service.

1.7.2 Equality and Diversity

We will ensure that complaints services are accessible equally to all sections of the community who may be in need of them and will not inadvertently discriminate against particular groups. Particular account will be taken of factors such as disability, age, gender, religion, race and sexual orientation.

1.7.3 Advocacy & Support

If our customers feel or appear to be at any sort of disadvantage in being able to express themselves, the Council will offer them the help and support they need to have their concerns listened to and understood. This may include translation or interpretation services, or referral to sources of local independent advocacy and advice. Children and young people will be offered a formal advocacy support service commissioned through Barnardos.

1.8 Encouraging Problem-Solving

1.8.1 Local Resolution

Concerns or worries are often raised as part of normal everyday interaction between the Council and its social care customers. Normally, these will be easily resolved by the staff working directly with the customer. It is our policy to encourage staff to work with our customers to explore and resolve problems before they become complaints. However, where this is not possible, it is our policy to investigate and answer complaints as close to where the problem occurred as possible. (See Practice Guidance on Problem Solving)

1.8.2 Alternative Dispute Resolution/ Conciliation

We recognise that a complaint investigation may not necessarily help to improve ongoing working relationships between the customer and the staff involved. We will offer customers the opportunity to take part in conciliation, through the Customer Relations Team, to help resolve outstanding issues and improve working relationships as an alternative to, or in addition to, pursuing the different stages of the complaints procedure. (See Practice Guidance on Alternative Dispute Resolution)

1.9 Seamless services

1.9.1 The Council will develop internal protocols to ensure complaints which are subject to both the social care and corporate complaints procedures are dealt with in a co-ordinated and consistent way. Where possible complainants will receive a complete single response to their complaint. Where there is more than one lead officer involved in a complaint, consideration will be given to who will be responsible for handling the complaint and who will ensure that the complainant is kept informed. (See Protocol: Council Complaints Handling)

1.9.2 The Council will also ensure that appropriate external protocols are developed with key partner agencies, such as Health Primary Care Trusts (PCTs), to ensure a similar co-ordinated approach, whilst ensuring different legislative requirements within respective agencies are met. (See Protocol: Warwickshire & Coventry Health and Social Care Complaints Handling)

1.10 Compliance with Legislation and Guidance

The adult social care representations procedure is designed to comply with the requirements of the Local Authority Social Services Act 1970, as amended by the National Health Service and Community Care Act 1990, and the Health and Social Care (Community Health and Standards) Act 2003, the Social Services Complaints Regulations 2006 for Adults (SI 1681) and the policy guidance “Learning from Complaints” issued by the Department of Health in 2006. (See Appendix 1 for full details of legislative context)

1.11 Key Process Policy Decisions

1.11.1 Eligibility

Only those categories of person specified in relevant legislation will have an automatic right to use these complaints procedures (See Section 2: Definitions)

1.11.2 Exclusion

The complaints procedure cannot be used in the following circumstances:

- If the person complaining is not eligible (see Section 2: Definitions)
- If the complaint is not about the Council’s Social Care Services or anyone providing social care services on its behalf
- If the same complaint has already been dealt with through the complaints procedures
- If the same complaint has already been investigated by a Local Commissioner
- If the complaint is vexatious
- If an alternative statutory appeals process exists
- If the person complaining has signalled their intention to take legal proceedings in relation to the substance of the complaint

1.11.3 Complaints that do not meet statutory requirements for consideration under this procedure

Complaints which are made by people who would not normally satisfy the eligibility requirements of this statutory procedure, but who would meet the eligibility requirements of the corporate complaints procedures, and whose complaint is about the actual or potential impact social care services have on them as an individual, will be allowed to use this complaints procedure, and will be treated in the same way as other complainants within this process. (See Section 2: Definitions for detailed clarification of eligibility as defined within the legislative framework.)

1.11.4 Complaints which relate to issues other than this, such as service provider disputes about contracts, will not be eligible to use this procedure.

1.11.5 Ensuring reasonable, appropriate and proportionate use of this procedure.

The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them. There are a number of things that may or may not be within a person's control that can impact on the manner and frequency of their approaches. These may include for example, but the list is not exhaustive: drug or alcohol dependency issues, their mental health and their cognitive ability. The Council should consider taking advice from relevant professionals where you believe there are factors similar to these. (See Protocol on ensuring reasonable, appropriate and proportionate use of complaints procedures for further details)

1.12 Stages of the complaint procedure

1.12.1 Stage 1 Local resolution: This will normally be conducted by the local team manager

1.12.2 Stage 2 Independent Investigation: The Council will normally commission an external investigator, and the investigation will be co-ordinated and performance-managed through the Customer Relations Team.

1.12.3 Stage 3 Review Panel: The Panel will consist of three Independent People. The Customer Relations Team will commission the Panel, in consultation with the Chairperson they appoint.

1.12.4 Freezing (deferring) decisions

Social care decisions that will have a significant effect upon the life of an individual, may be deferred until the complaint has been considered, having regard to the best interests of the service user. (For more information see Section 3,)

1.12.5 Suspension

Complaint investigations may be suspended if a complaint is subject to concurrent investigation under one or more of the following procedures:

- Child protection
- Court proceedings
- Grievance procedures
- Disciplinary procedures
- Criminal proceedings

This is because these are considered to have priority over the complaint investigation process. Once they are concluded, any outstanding issues of complaint can then be investigated.

1.13 Local Government Ombudsman

1.13.1 This Council will actively seek guidance and advice from the Local Government Ombudsman at any stage in the complaints investigation process, in situations where they may be able to help the Council's understanding and interpretation of facts, and consideration of suitable options for remedy and redress. (See Section 3, paragraph)

1.13.2 Additionally, where a reasonable and appropriate consideration of the complaint has been undertaken at Stage 2 and further consideration by the Review Panel is unlikely to produce a demonstrably different outcome, the Customer Relations Team will discuss with the customer the possibility of an early referral to the Local Ombudsman.

1.14 Redress & Compensation

1.14.1 When we get things wrong we are committed to trying to put them right for the individual concerned. In all such cases we will apologise. We will also explain what we will do to put things right and try to prevent it happening again to anybody. We will listen to what the complainant says they want to happen and we will make all reasonable efforts to agree solutions.

1.14.2 Financial payments are exceptional. Complaints investigators and Review Panels can make recommendations to the Council about financial payments, as indeed could the Local Government Ombudsman. However, Directors are only able to authorise payments of up to £250. Higher payments need to be approved by the Council's Regulatory Committee. This Committee will normally require the Local Government Ombudsman to have been involved in suggesting an appropriate Local Settlement figure, and will always require there to have been detailed consideration by the Council's Legal Service and Insurers Service. This is unlikely, therefore, to be the most appropriate route for a customer to pursue if their primary aim is to seek financial compensation.

1.15 Monitoring, Learning, and Quality Assurance

1.15.1 Recording and monitoring

The Customer Relations Team will record and monitor all complaints and representations received. Recording will include details of the representation, the decisions made, the action taken and any consequential issues that arose.

1.15.2 Record Management

All functions of the representations procedure will adhere to the requirements of the Data Protection Act 1998, and the Freedom of Information Act 2000.

1.15.3 A Learning Culture

The Council is committed to learning from all sorts of feedback from its customers. Compliments, suggestions, complaints and policy representations will all be positively used to help the Council to develop and improve its social care services. This will include:

- procedure and practice guidance to ensure effective feedback loops for customers, staff, managers and senior officers.
- Regular reporting to senior officer forums, and to the Adult and Community Services Overview and Scrutiny Committee
- Published annual reports

(For further information see relevant Practice Guidance.)

1.16 Death, Serious Injury or Major Incident:

The Council is committed to thorough, prompt and open investigation of all situations in which a customer receiving social care services may have been at risk of death or serious injury, or have actually been seriously injured or killed, to see if there is any possibility that the actions or inactions of the Council (or people acting on their behalf) may have contributed to the incident. Whilst other statutory procedures may need to take precedence initially, e.g. criminal proceedings, coroners inquiry, Health and Safety investigations, it is important that customers, family and carers are made aware of their right to raise concerns about the incident through this complaints procedure, and that the Customer Relations Team is alerted quickly to such incidents and actively involved in the Council's internal review and response to any such incident.

SECTION 2 : DEFINITIONS

2.1 Defining compliments, suggestions, representations and complaints

2.1.1 Compliment

- An expression of praise, admiration or thanks.

2.1.2 Suggestions

- A suggestion is a proposal for change or improvement.

2.1.3 Representations against policy

- A complaint about the way the Council has complied with and/or interpreted legislation, government guidance or other relevant advice in developing its policies.

2.1.4 Complaint

- A complaint is defined as an expression of dissatisfaction or disquiet which requires a response.

2.2 What may be complained about?

2.2.1 A complaint may arise as a result of many things relating to statutory social services functions as referred to in Local Authority Social Services Act 1970, Section 1A and Schedule 1. These include:

- Assessing the social care needs of people affected by issues such as ageing, mental illness, physical, learning or sensory disability. By social care needs we mean what would help them to achieve, maintain or restore their social independence or quality of life
- Planning the best way of meeting assessed needs which would enable people to live as independently as possible in their own homes, or in residential settings in the community, within available resources
- Securing the resources to put into place the individual care plan
- Providing or commissioning relevant services, such as personal domiciliary care, day services, residential services
- Charging for services

- Assessing the needs of carers, and providing services to support carers in their caring role
- Enabling people to make their own arrangements for meeting their assessed needs through Direct Payments
- Protecting vulnerable adults
- Monitoring, reviewing and adjusting care plans to ensure they continue to meet people's needs
- Applying for guardianship and taking steps relating to the compulsory care and treatment of people suffering from mental disorder
- Co-operating with other agencies in the exercise of these functions

2.3 What can't be complained about?

2.3.1 The complaints procedure cannot be used when:

- the person wishing to complain does not meet the requirements of "who may complain," (see next section) and is not acting on behalf of such an individual;
- the complaint is about actions and decisions of another local authority, health agency or body (e.g. Police or Court decisions):
- it repeats a complaint which has already been looked at under these complaints procedures
- it has already been investigated by a Local Commissioner
- it is vexatious
- the complainant has indicated they intend to take legal proceedings in relation to the substance of the complaint
- services for which an alternative statutory appeals process already exists

2.3.2 Concurrent Investigations

Whilst recognising the importance of complaints investigations, the Council must be careful not to compromise or prejudice other procedures, for example:-

- child protection
- protection of vulnerable adults
- court proceedings

- grievance procedures
- disciplinary procedures
- criminal investigations

2.3.3 Decisions on how to proceed in such situations will be taken on a case by case basis by the Customer Relations Manager. The Customer Relations Manager has the discretion not to commence, or to suspend, complaints investigations if to proceed would compromise another procedure. However, the complaint investigation will start or resume once the concurrent investigation is discontinued or completed.

For complaints which include issues that are the responsibility of this Council, please see protocols for working with Health partners and other council bodies.

2.3.4 People who wish to complain about their detention under the Mental Health Act 1983 can appeal against their detention to the Mental Health Review Tribunal. However, complaints about the process of the assessment and the Approved Social Worker's actions during the process are covered by the social care complaints procedures and the Customer Relations Team will pursue their complaint through the social care procedures.

2.4 Who may complain?

2.4.1 The Local Authority Social Services Act 1970, Section 7B describes who may make a complaint. A person is eligible to make a complaint where the local authority has:

- a power or a duty to provide or to secure the provision of , a service for him, and his need or possible need for such a service has (by whatever means) come to the attention of the local authority
- or a person action on such a person's behalf.

2.4.2 Who may complain on behalf of someone else

A representative acting on behalf of an eligible person may make a complaint where that person is a vulnerable adult, or has asked the representative to act on his behalf or is not capable of making the complaint himself. A complaint may also be made by a representative in respect of person who has died.

2.4.3 Complaints about regulated services under the Care Standards Act 2000

The Care Standards Act 2000 requires regulated providers to have their own complaints procedures, which are themselves subject to Regulations and national minimum standards. Such complaints do not fall under the Councils complaints procedure. However users of regulated services will be subject to protection through normal safeguarding, regulation and, where necessary, Protection of Vulnerable Adults.

2.4.4 Anonymous complaints

Anonymous complaints should always be recorded and referred to the Customer Relations Team in the same way as other complaints. Anonymous

complaints fall outside of the scope of the statutory procedure and it is for the Customer Relations Team to decide what action it should take. The fact that the complaint is from an anonymous source is not enough in itself to justify a decision not to pursue the matter. Nor should it rule out referral to other procedures as relevant.

2.4.5 Complaints relating to more than one local authority

This Council retains responsibility for investigating complaints for ordinarily resident customers (or from those acting on behalf of ordinarily resident) within our local authority area, but who are living in the area of a different local authority at the time of the issue of the complaint. However, on a case by case basis, it may be agreed to commission the investigation task from the local authority where the adult is currently residing. The adjudication responsibility will always remain with this Council. This Council will seek to respond in the same way to any similar investigation request from another local authority.

2.5 Withdrawal of a complaint

- 2.5.1** A complainant or their advocate may withdraw the complaint either verbally or in writing at any time. The Customer Relations Team will write to the complainant and advocate confirming the withdrawal of the complaint.
- 2.5.2** In certain cases where complaints are withdrawn, it may be necessary to continue the investigation to ensure the Council has followed practice, policy or procedural guidance or that the Council has discharged its statutory obligations. The decision to terminate or continue the investigation will be made by the Customer Relations Team.
- 2.5.3** Complaints made by vulnerable people, which are withdrawn before the completion of an investigation, will be considered carefully. Any vulnerable person who withdraws a complaint must be contacted to determine why the complaint has been withdrawn and whether it would be in the vulnerable person's best interest to pursue the investigation further.

SECTION 3 : THE COMPLAINTS PROCEDURE

3.1 Introduction

3.1.2 The handling and consideration of complaints consists of three stages:

- Local resolution – Stage 1
- Investigation – Stage 2
- Review Panel – Stage 3

3.1.3 The timescales in working days are:

- 10 working days at Stage 1 (with a further 10 working days for more complex complaints or if advocate is required);
- 25 working days at Stage 2 (with maximum extension to 65 working days
- 30 working days to organise and hold the Review Panel at Stage 3;
- 5 working days for the Panel to issue its findings;
- 5 working days for the Strategic Adult Director to respond to the findings;
- For those complaints that reach the end of Stage 3, a total overall timescale to complete final consideration of the complaint from Stage 1 to Stage 3 will be six months at the maximum.

3.1.4 The timescales for complainants to respond within are:-

- 20 working days to request a Stage 2 investigation at the conclusion of Stage 1
- 20 working days to request a Stage 3 Review Panel at the conclusion of Stage 2
- 1 year to request the Local Government Ombudsman to look at any continuing concerns after the completion of Stage 3

3.2 Receiving a complaint

As soon as it becomes apparent that someone wishes to make a complaint, they must be informed about the Council's complaints procedure and how to contact the Customer Relations Team. Complaints may be made to any member of staff verbally or in writing or electronically.

If a complaint is received the Customer Relations Team must be informed as soon as it is reasonably practicable. The Customer Relations Team will register the complaint from the date it was first received in the Council. The complainant will then be told how the Council will respond to their complaint.

The Complainant retains the right to approach the Local Government Ombudsman at any time. However the Local Government Ombudsman will ordinarily expect the Council to consider the complaint initially and may refer the complaint back to the Customer Relations Manager if this is not done.

3.3 Time Limit for making a complaint

There is a one year time limit for making complaints or representations. However, decisions on whether to make an exception to this will be made on a case-by-case basis by the Customer Relations Manager. The Customer Relations Manager will write to the complainant to explain whether the exception can be made or not and the reasons why. The response will also advise the complainant of their right to approach the Local Government Ombudsman.

3.4 Advocacy and Support

All staff receiving complaints, and in particular the Customer Relations Team, will proactively consider whether advocacy or other support might help the complainant to express their concerns and use the complaints procedure successfully and will promptly refer complainants to appropriate sources for support. Complainants will be encouraged to access advocacy support services commissioned by Warwickshire County Council.

3.5 Alternative Dispute Resolution

This Council recognises that complaints procedures may not, in themselves enable damaged working relationships between staff and customers to be repaired. The Customer Relations Team will identify when a conciliation approach may be needed in addition to, or instead of, action within the complaints procedures. Complainants and staff will be offered the opportunity for conciliation in these circumstances .

3.6 Clarifying the Complaint

3.6.1 Many complaints received are clear and contain the level of detail needed to enable them to be investigated straight away. In such cases, the timescales for the Council completing the complaint process starts from the moment that complaint is made to any member of staff.

3.6.2 However, if the complaint needs to be clarified, urgent action will be taken by the Customer Relations Team do this with the complainant. In such cases, the timescale for the Council completing the complaints process will start from the moment that the complaint has been clarified and agreed with the complainant

3.7 Freezing Decisions

3.7.1 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 should always be given to deferring a decision that will have a significant effect upon the life of an individual until the complaint has been considered, having regard to the best interests of the service user.

3.7.2 The decision to defer will normally be made through detailed discussion and risk assessment between the Customer Relations Manager and the Manager responsible for the service, within the context of the work being undertaken with the service user. Decisions need to be made on a case by case basis, but there should be a presumption in favour of freezing unless there is a good reason not to. In cases where decisions are met with opposing views, the relevant Senior Manager should be consulted to provide an ultimate decision.

3.8 Stage 1 Local resolution

3.8.1 The focus of Stage 1 is on encouraging dialogue and exchange of information between the complainant and the Team Manager, exploring and explaining the thinking behind decisions and actions, and agreeing a way forwards. The Team Manager is responsible for making all relevant local enquiries to ensure that this can be a meaningful and informed review, which can be completed quickly.

3.8.2 The expectation is that the majority of the complaints will be considered and resolved at Stage 1. If the Customer Relations Manager believes that it would not be appropriate to consider the complaint at Stage 1, this can be discussed with the complainant. Where both parties agree, the complaint can move directly to Stage 2. Where one party disagrees with using local resolution, the Customer Relations Manager will make the final decision on proceeding directly to Stage 2.

3.8.3 The Team Manager dealing with the complaint will send a letter to the complainant confirming the final outcome of their enquiries. The Customer Relations Team must be informed of the outcome as soon as possible. If the complainant is a vulnerable person, a meeting should be set up to confirm the agreed outcome or resolution.

3.8.4 The complainant will be informed by the Customer Relations Team that they have the right to move the matter on to a Stage 2 if the timescale has elapsed at Stage 1, or if their complaint has not been resolved their satisfaction. This period of time can be extended with the complainant's agreement or may be requested due to other circumstances. However, if at any time, the complainant then decides that they want to move their complaint on and start Stage 2, the Customer Relations Team must be informed immediately. The Customer Relations Team will initiate any Stage 2 investigation.

3.8.5 Summary of Stage 1 process

Timescale	Action
Within 1 working day	<ul style="list-style-type: none"> • Logged with Customer Relations Team • Identify if an advocate is needed. Suspension of the complaint for no more than 10 days whilst advocacy is arranged.

Within 2 working days of confirming complaint details	<ul style="list-style-type: none"> Complaint sent to Team Manager. Complainant informed in writing how issues of complaint will be responded to.
Within 10 working days	<ul style="list-style-type: none"> Team Manager will complete local enquiries and share outcome with complainant. If extension of timescale needed Team Manager will discuss with complainant and Customer Relations Team.
5 working days after the complaint investigation concluded	<ul style="list-style-type: none"> Customer Relations Team will write to complainant to ask if they are satisfied with outcome of Stage 1 enquiries. The Complainant will be advised that they have 20 working days to request Stage 2 if they remain unhappy.
After 20 working days	<ul style="list-style-type: none"> If no request is received to progress to Stage 2, consideration of the complaint is ended.

3.9 Stage 2 Investigation

3.9.1 Where the complaint has not been resolved under the local resolution and the complainant has decided that they want to move to a Stage 2, a Stage 2 Investigation will be commissioned by the Customer Relations Team

3.9.2 The Stage 2 Investigation provides comprehensive, open, transparent and fair consideration of the complaint, with a formal written report of the investigation, a senior manager of the Council considers and responds to the investigation report.

3.9.3 Once the complainant has decided that they want a Stage 2 investigation, the Customer Relations Team will ensure that the details of the complaint and complainants desired outcomes are recorded in writing and agreed with complainant.

3.9.4 The Customer Relations Team will appoint an Investigating Officer to investigate the complaint and prepare a written report for adjudication by a senior manager of the Council. The Investigating Officer may be employed by this Council but will normally be someone independent of the Council appointed specifically to carry out the investigation and prepare the report. The Investigating Officer will not directly line manage the service or person about whom the complaint is being made. Where there are significant concerns about

the vulnerability of the complainant and the seriousness of the complaint, the Customer Relations Team will also appoint an Independent Person to the investigation. This person will be separate and in addition to the Investigating Officer and will also have full access to all aspects of the investigation. Their role is to ensure the investigations fairness and transparency, and in particular that the views and needs of the complainant are properly considered.

3.9.5 The Investigating Officer will confirm the detail of the complaint with the complainant and their expectations for resolution. Once this is agreed, the Investigation timescale will start.

3.9.6 The Investigating Officer, Independent Person and the Customer Relations Team will then plan how the investigation will be carried out. The Investigation Officer will ensure that the complainant is informed of progress of the investigation

Stage 2 Investigation Timescale

3.9.7 The timescale for the Stage 2 investigation can only start once the details of the complaint and the complainant's desired outcomes are recorded in writing and agreed with the complainant. In some cases the complainant will have provided all this information from the outset and the timescale will start immediately. However, in some cases further clarification is needed, and this will normally be the responsibility of the Investigating Officer, in liaison with the Customer Relations Team.

If the complainant amends or adds to the agreed written record of complaint at a later point in the investigation, the Stage 2 timescale starts again from the date the record was amended.

3.9.8 The Investigation should be completed and the Directorate response sent to the complainant within 25 working days from the date on which the complaint was agreed. It is recognised that this will be impractical in some cases and regulations allows for the 25 working day limit to be extended in certain circumstances to a maximum of 65 working days.

3.9.9 Extensions will only be agreed exceptionally. The Customer Relations Team must agree all extensions. Communication will be maintained with the complainant and where possible reach a mutual agreement as to what is reasonable where the 25 working days is not feasible.

3.9.10 Possible reasons for extension might include:

- Where the complaint involves several agencies or all or some of the matters concerned are the subject of a concurrent investigation.
- If the complaint is particularly complicated
- If a key witness is unavailable for part of the time.

3.9.11 Where it is not possible to complete the investigation in the 25 working day period, it must be done no later than 65 working days from the date on which the written complaint was agreed. The complainant will be informed as soon as possible in writing of:

- The reason for the delay and
- The date by which they will receive a response.

3.9.12 The Investigating Officer must produce a detailed draft report, to a specified format and standard for review by the Customer Relations Team. The Customer Relations Team will review the content and quality of the report, and ensure that the draft is checked for factual accuracy. The report will be finalised by the Investigating Officer. Where an Independent Person has also been involved, they will produce a short report commenting upon the investigative process followed. The Investigating Officer and Independent Person reports will then be sent to the Adjudicating Officer.

3.9.13 The Adjudication Process

3.9.14 The Adjudication Officer will be a Senior Manager who will report to the Strategic Director of Adult Health and Community Services. The Adjudication Officer may need to meet with the Customer Relations Team, Investigating Officer and Independent Person to clarify aspects of the report. The Adjudication Officer may need to meet with the Customer Relations Team in drafting the adjudication. The Adjudication Officer will then write to the complainant confirming their response to the report, any actions they will be taking and their timescale for implementation.

3.9.15 The Adjudication Officer will normally offer to meet the complainant to discuss the response and any actions they propose. This is called Adjudication meeting. This can be held prior to the Adjudication officer writing their adjudication or afterward.

3.9.16 The adjudication letter will inform the complainant of their right to a Stage 3 Review Panel if they remain unhappy and that they must inform the Customer Relations Team in writing that they wish to take this up within 20 working days. The decision to move to a Review Panel will be at the discretion of the Customer Relations Team. If no request to proceed to Stage 3 is received from the complainant within 20 days, then consideration of the complaint is ended.

3.9.17 The Adjudication Officer will ensure that any recommendations contained in their response are actioned. The Customer Relations Team will monitor the progress of the action plan.

3.9.18 Summary of process for Stage 2

Timescale	Action
Within 5 working days	<ul style="list-style-type: none"> • Initially clarify basic complaint details and desired outcomes.
Within next 5 working days	<ul style="list-style-type: none"> • Customer Relations Team

	appoints an Investigating Officer and Independent Person (if appropriate).
Within 10 working days	<ul style="list-style-type: none"> The Investigating Officer contacts the Complainant and clarifies further complaint detail and investigation process needed.
Within 25 working days	<ul style="list-style-type: none"> The investigation will be completed unless extension agreed by complainant. If the complainant changes the basis of the complaint, the 25 working days timescale starts again from the adjustment.
Within 5 working days	<ul style="list-style-type: none"> The Senior Manager (Adjudication Officer) will write to the complainant confirming response to report and timescales for any actions. The Adjudication meeting may be before or after this.
After 20 working days of Adjudication letter or Adjudication meeting, whichever is latter	<ul style="list-style-type: none"> If no request to proceed to Stage 3 is received from complainant, the complaint is closed.

3.9.19 Early referral to Local Government Ombudsman

The Customer Relations Team may discuss with the complainant whether the complaint is suitable for early referral to the Ombudsman, if the complaint has been upheld at Stage 2 and Stage 3 is unlikely to be able to add further to the Directorates consideration. The Adjudication Officer will liaise with Customer Relations Team to ensure all relevant people are advised of the outcome of the Adjudication.

3.10 Stage 3 Review Panel

3.10.1 The Review Panel is an open review focusing on achieving understanding of the complainant's continuing concerns and identifying any practical remedies or creative solutions which might help the Council to resolve these. It is not a quasi-judicial process. Complainants are encouraged to bring a representative to speak on their behalf if they feel this will help them, but legal representation is not allowed.

3.10.2 The Stage 3 Review Panel will be convened where a complainant has concluded the Stage 2 of the complaints procedure and the complainant wishes to proceed to a Review Panel.

3.10.3 Requests to Stage 3 should specify as precisely as possible what in relation to the Council's response to the complaint the Panel is being asked to review and what action or measures are needed to satisfy the complainant.

3.10.4 The Review Panel should be scheduled to meet within 30 days of the receipt of the request for a Review or the date that the necessary clarification of what the Panel is being asked to review is received. The Customer Relations Team will oversee the arrangements for appointing the Chair, other panellists, and convening the meeting. The Chair will be involved in deciding the arrangements for the Review Panel.

3.10.5 An Independent Person cannot be a current employee of the Council, or a spouse or civil partner of an employee or member of the Council. At least 3 years must have elapsed before former Council staff can be considered eligible to act as Independent People.

3.10.6 The purpose of the Review Panel will be to look at:

- Whether or not the complaints process was carried out properly and fairly.
- Whether or not the conclusions reached by the investigators on the basis of the material available were reasonable and fair.
- Whether or not action taken by the investigators on the basis of any conclusion reached was appropriate, having regard to all the circumstances.
- Whether or not the complainant's expectations for resolution have been met and whether or not more can be done to help to achieve this.

3.10.7 The Review Panel will not reinvestigate the complaints, nor will it consider any substantively new complaints that have not been first considered at Stage 2.

The Review Panel is not a quasi- judicial process and the presence of lawyers can work against the spirit of openness and problem solving. However, the complainant has the right to bring a representative to speak on their behalf.

3.10.8 Organisation (setting up) of the Review Panel

The Customer Relations Team has overall responsibility for delivering the Panel process. The Review Panel will be provided locally and with due regard to the complainant's availability and convenience. The complainant will be notified of the Panel's date and location in writing at least 10 working days before the Review Panel meets.

3.10.9 Panel papers will be sent to all attendees as soon as these have been agreed by the Chair and no later than 10 working days before the date of the Panel. These will normally include:

- Information on Stage 1(as relevant);

- The Stage 2 investigation report(s);
- The local authority's adjudication;
- Any policy, practice or guidance information relevant to the complaint;
- Any comments that the complainant has submitted to the Panel;
- Information on the local practice around Panels, such as start time, conduct, roles and responsibilities.

3.10.10 The Chair of the Review Panel will make the final decision on circulating any further written material to the other attendees outside of the timescales.

3.10.11 If any complaint is lodged on the day by the complainant, about the proceedings, this will be recorded and the Panel will take a view on the need for further action and record their decision.

3.10.12 Attendance at Panel

3.10.13 The complainant has the right to attend the Panel and will be informed of this right and assisted to attend as appropriate. Complainants will be informed of their entitlement to be accompanied by another person and for this person to speak on his behalf. This person must not be a barrister or solicitor acting in a professional capacity.

3.10.14 The persons involved with the investigation at Stage 2 (i.e. the Investigating officer, the Independent Person, the Adjudication Officer) will be invited to attend and contribute as relevant to their roles. Should any of these persons' unavailability cause an inordinate delay in holding the Panel; the Chair will take a view on proceeding without them present.

3.10.15 The Customer Relations Officer who has overseen the investigation will attend the Panel to answer any questions relating to the individual complaint handling process for the case. The Customer Relations Manager will also attend the Panel to provide advice and guidance to the Panel on the Council's complaints procedures and the role and remit of the Panel, and to provide administrative support.

3.10.16 The Council will proceed with the Panel in the complainant's absence at the complainant's request. Should the complainant fail to attend a scheduled Panel on more than one occasion, the Panel will proceed without them.

3.10.17 The Chair will make the final decision as to who should be in attendance (including asking specific members of the Council to attend to provide specialist advice or opinion).

3.10.18 Deliberations

The Panel will go into closed session to deliberate on their findings and conclusions. The Customer Relations Manager will attend to provide administrative support only.

3.10.1 The Panel will record its findings of the meeting and will notify the complainant and the Authority in writing within 5 working days. The findings will explain any recommendations and the reasons for them. If a Panellist disagrees with the majority recommendation, response should also record the Panellist view and the reason for it.

Summary of Stage 3 Process

Timescale	Action
Up to 20 working days after receipt of the Stage 2 adjudication	<ul style="list-style-type: none"> Complainant requests Review Panel.
Within 2 working days	<ul style="list-style-type: none"> Customer Relations Team acknowledges request.
Within 30 working days of the complainant's request for Review Panel (or when clarification is received)	<ul style="list-style-type: none"> Panel Hearing convened
Within 5 working days after the Panel has met	<ul style="list-style-type: none"> Review Panel produces its findings (including any recommendations).
Within 5 working days after receiving Review Panel's findings	<ul style="list-style-type: none"> Strategic Director of Adult Health and Community Services issues response to the complainant, with timescales for any actions, and advises the complainant of the right to progress to the Local Government Ombudsman.

3.11 The Local Government Ombudsman

3.11.1 The Commission for Local Administration in England (CLA) or Local Government Ombudsman service was established under Part III of the Local Government Act 1974 (the Act) as an independent body responsible for investigating complaints of alleged injustice arising from maladministration on the part of local authorities and of certain other bodies.

3.11.2 There are three Local Government Ombudsmen in England and they each deal with complaints from different parts of the country. Warwickshire County Council are currently dealt with by their York Office.

Anne Seex
 Local Government Ombudsman
 Beverley House
 17 Shipton Road
 York YO30 5FZ
Phone: 01904 380200
Fax: 01904 380269
Email: enquiries@lgo.org.uk

- 3.11.3** They investigate complaints about most council matters including housing, planning, education, social services, consumer protection, drainage and council tax. It is an independent, impartial and free service.
The objective of the Ombudsmen is to secure, where appropriate, satisfactory redress for complainants and better administration for councils.
- 3.11.4** The Ombudsmen can investigate complaints about how the council has done something. But they cannot question what a council has done simply because someone does not agree with it.
- 3.11.5** The Local Government Ombudsman cannot investigate anything that has or had a remedy by way of a court of law unless the Ombudsman is satisfied that, in the particular circumstances, it is not reasonable to expect the person aggrieved to have resorted or to resort to court proceedings.
- 3.11.6** The Local Government Ombudsman would normally expect a complainant to have had their complaint investigated at all stages of the council's complaints procedures before they will consider looking into their complaint. If a complainant contacts the Local Government Ombudsman earlier, this will normally be referred back to the Council as a "premature" complaint, for the council to register within its own complaints procedures. Occasionally, the Local Government Ombudsman may use their discretion to decide to investigate at this earlier stage.
- 3.11.7** The complainant as the end of the Council's Stage 3 process has one year to decide whether or not they wish to ask the Local Government Ombudsman to look into any continuing concerns they may have.
- 3.11.8** The Council is obliged to cooperate promptly and fully with all enquiries from the Local Government Ombudsman, and with any investigation they decide to make into the issues that the complainant has raised with them.
- 3.11.9** The Local Government Ombudsman encourages Local Settlement of complaints wherever possible. They are keen to support Councils in providing fair remedies and making necessary improvements where Council's have accepted they are at fault. If a Council can demonstrate this, the Local Government Ombudsman is unlikely to investigate further.
- 3.11.10** Should a Council disagree that they are at fault, and be unable to arrange a Local Settlement, the Local Government Ombudsman can decide to conduct a full investigation. This may result in one of three conclusions:
- No Maladministration
 - Maladministration which has not caused Injustice
 - Maladministration causing Injustice
- 3.11.11** If a finding of Maladministration is made, the Local Government Ombudsman will produce a formal report to the Council, recommending what they should do to put things right. If the Council does not respond satisfactorily, the Local Government Ombudsman can require the Council to publish a statement in local press detailing the actions recommended by the Local Government

Ombudsman, and explaining its reasons for not complying with their recommendations.

SECTION 4 SUGGESTIONS, COMPLIMENTS AND REPRESENTATION PROCEDURES

4.1 Suggestions for how to improve services

The suggestion may be received in writing, by the telephone, or during meetings. All suggestions must be noted and referred to the Customer Relations Team. The suggestion will be registered and a letter of acknowledgement will be sent to the person making the suggestion within 5 working days, and a full response sent to the customer within 10 working days explaining what will be done about the suggestion. All suggestions are considered as part of the learning and service development approach, and are reported on to senior managers and councillors as part of our annual reporting programme.

4.2 Compliments

The compliment may be received in writing, by the telephone, or during meetings. All compliments must be forwarded to the Customer Relations Team. The compliment will be registered and a letter of acknowledgement will be sent to the person making the compliment within 5 working days. The Team Manager will be asked to share the compliment with the individual and/or team members consider what best practice this demonstrates, and how this might be shared with the Council to improve services for all. All compliments are considered as part of the learning and service development approach, and are reported on to senior managers and councillors as part of our annual reporting programme.

4.3 Representations against Council policy

4.3.1 Sometimes, as well as issues of complaint relating to individuals, customers will also make a representation against Council policy. It is important to separate out issues of individual complaint and when someone is challenging how the Council has interpreted its powers or duties, i.e., they are raising issues, which potentially affect how the Council provides services for a group of people. It is important for the way the policy has been applied in individual circumstances to be reviewed as part of the complaints process. This will ensure that it has been applied properly, and that there are no reasons why an exception to that policy should be made in this individual case.

If this has been established, but the customer remains unhappy about the Council interpretation of its powers and duties, this should be registered with the Customer Relations Team as a representation against policy.

4.3.2 The representation will be registered and the Customer Relation Team will send a letter of acknowledgement to the person making the representation within 5 working days. A Senior Manager will be asked to respond. This response should explain why the Council has interpreted its duties and powers in the way that it has, and advise how the individual's views about this will be

included in future reviews of policy, procedure and practice guidance. All representations against policy are considered as part of the learning and service development approach, and are reported on to senior managers and councillors as part of our annual reporting programme.

Summary of Suggestions, Compliments and Representation process

Suggestions	Compliments	Representation against policy
Within 1 working day, the suggestion is registered with Customer Relations Team	Within 1 working day, compliment is registered with Customer Relations Team	Within 1 working day, the representation is registered with Customer Relations Team
Within 5 working days an acknowledgement letter is sent	Within 5 working days, an acknowledgement letter is sent	Within 5 working days, an acknowledgment letter is sent.
Within 3 working days, Team Manager to investigate whether action is to be taken	Within 3 working days, Team Manager to share the compliment with individual or team member.	Within 10 working days, a Senior Manager will respond.
If the suggestion is received and actioned by the team, this must be retrospectively registered with Customer Relations Team within 10 working days	If the compliment is received and actioned by the team, this must be retrospectively registered with Customer Relations Team within 10 working days	

APPENDIX 1

LEGISLATIVE FRAMEWORK

Warwickshire County Council has a statutory duty under the National Health Service and Community Care Act 1990 to 'establish a procedure for the consideration of representations and complaints'.

The guidance is for representation including complaints made by adults and people acting on their behalf.

These policy and procedure documents replace the Social Services Departments previous guidance on Children and Adult Complaints Procedures. These new procedures came into force from 1 September 2006.

These policy and procedure documents reflect the changes made by the Local Authorities Social Services Complaints (England) Regulations 2006, and the section 7 guidance Learning from Complaints 2006, published by the Department of Health.

This guidance should be read in conjunction with other legislation and guidance relevant to the handling of complaints such as:

- Local Authority Social Services Act 1970
- Mental Health Act 1983
- NHS and Community Care Act 1990
- Disability Discrimination Act 1995
- Human Rights Act 1998
- Public Interest Disclosure Act 1998
- Data Protection Act 1998
- Freedom of Information Act 2000
- Care Standards Act 2000
- Local Government Act 2000
- Race Relations Amendment Act 2002
- Health and Social Care (Community Health and Standards) Act 2003

Additional relevant advice and guidance include:

- *No secrets – Guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse, The Department of Health and The Home Office, 2000.*
- *National Minimum Standards*, published by the Secretary of State under the Care Standards Act 2000;
- *Performance Assessment Standards*, published by the Department of Health.
- *Learning from Complaints*. London: Department of Health, 2004.

List of Key Protocols and Working Arrangements Relevant to these Procedures

- **Handling Complaints with Disciplinary Issues**
- **Handling Complaints about Regulated Residential and Domiciliary Care Service Providers**
- **Complaints about Processing of Personal Information**
- **Co-ordinating Complaints Responses across the Council**
- **Co-ordinating Complaints Responses across Social Care and NHS bodies in Coventry and Warwickshire**
- **Ensuring Reasonable, Appropriate and Proportionate Use of Complaints Procedures**

List of Practice Guidance Under Development

- **Publicizing and Making Complaints Services Accessible**
- **Problem-Solving – All Staff**
- **Advocacy**
- **Alternative Dispute Resolution**
- **Identifying the Right Procedures to Follow**
- **Options for Remedies and Redress**
- **Guidance for Team Managers on how to Conduct Stage 1 Enquiries**
- **Guidance for Senior Manager on Supporting the Problem-Solving Role of Team Managers at Stage 1**
- **Guidance for Investigating Officers on how to Conduct Stage 2 Investigations**
- **Guidance for Independent People on their Role in Stage 2 Investigations**
- **Guidance for Senior Managers on their Role as Adjudication Officers at Stage 2**
- **Guidance for Independent People on their Role at Stage 3 Review Panels**
- **Guidance for Independent Chairpersons on their Role at Stage 3 Review Panels**
- **Guidance for Senior Management Adjudicating Officers on their Role at Stage 3 Review Panels**
- **Guidance for Investigating Officers on their Role at Stage 3 Review Panels**
- **Guidance for Stage 2 Independent People on their Role at Stage 3 Review Panels**
- **Guidance for Directors on their Role in Responding to the Recommendations of Review Panels**

- **Ensuring Organisational Learning**
- **Supporting Staff**

DRAFT



**Warwickshire's Social Care Complaints and
Representations Policy & Procedure for
Children, Young People and Families**

**THE CHILDREN ACT 1989 REPRESENTATIONS PROCEDURE (ENGLAND)
REGULATIONS 2006**

CHILDREN ACT 1989

ADOPTION AND CHILDREN ACT 2002

CARE STANDARDS ACT 2000

**Karen Smith
Customer Relations Manager
August 2006**

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SECTION 1 POLICY

Warwickshire County Council Policy about compliments, suggestions and complaints regarding its social care services for children, young people and families

1.1.1 Warwickshire County Council actively encourages compliments, suggestions, complaints and policy representations about its social care services. We want to work with children and young people, parents, carers, families and other professionals to provide quality services to meet their needs.

1.1.2 To do this we must:

- listen to people carefully.
- take their views seriously and act on them.

1.1.3 We need to:

- find out when things have gone well and customers are happy.
- improve our services by making the most of bright ideas or comments about our services.
- find out when things go wrong and put them right.
- learn from our mistakes and made sure they don't happen again.

1.2 Encouraging compliments

1.2.1 The Council wants to hear from people when we get things right. This helps us to:

- understand what services people value and why
- share best practice
- make sure we learn and develop in a way which keeps providing a good service to our customers
- recognise and reward when our staff "go the extra mile"

1.3 Encouraging suggestions

1.3.1 We believe that listening to our customers' suggestions helps us to improve the way we do things. We welcome any suggestions about how we might do things differently or better, and are committed to taking seriously any suggestions for service improvements.

1.4 Encouraging complaints

1.4.1 A healthy working relationship with service users and their carers will include customers feeling able to challenge decisions and actions they do not understand or disagree with.

1.4.2 Children, young people and their families may find it difficult to talk about their views or concerns. They may:

- be worried that complaining will lead to a reduction in services or “repercussions” from staff providing an important service to them
- find it difficult to speak out because of things like how their disability affects them, their level of communication skills, or their racial, cultural or religious background, or their age, gender or sexual orientation.

1.4.3 The Council wants all our customers to feel confident that their views will be taken seriously, and that there will be no “repercussions” if they need to raise genuine concerns. This is particularly important for children and young people, who often find it difficult to talk about the problems they are experiencing.

1.5 Encouraging representations against policy

The Council wants to know when people affected by our social care services disagree with the way it has interpreted legislation, directions, guidance and advice it follows in respect of social care services it has a duty or power to provide. The Council may also make other policy decisions about social care services which people wish to challenge.

1.6 Developing procedures to support our compliments, comments, complaints and representations policy

1.6.1 Our procedures are designed to:

- protect vulnerable children from abuse and lack of care
- confirm the right of customers to make a complaint and to disagree
- enable those denied a service to challenge that decision
- allow customers or their representatives to complain about the quality of service
- ensure that complaints or suggestions are acted upon
- provide extra feedback for our customers about the quality and appropriateness of our services
- inform planning, resource allocation and quality assurance mechanisms.

1.6.2 The Council will co-ordinate this through a specialist management service, the Customer Relations Team, which will

- empower our service users and their representatives to challenge decisions, and question service quality and appropriateness

- influence planning, resource allocation and quality assurance mechanisms, and strengthen organisational learning
- encourage a strong proactive problem solving culture within the social care services
- deter bad practice
- validate and promote good practice
- provide public accountability for the actions of Warwickshire social care services.

1.7 Enabling Customers to Challenge Social Care Services

1.7.1 Access

All those who receive a social care service from the Council, including those who, following an assessment, are not considered eligible for a service, will be given information about how to compliment, comment on, complain about or make a policy representation about that service.

1.7.2 Equality and Diversity

We will ensure that complaints services are accessible equally to all sections of the community who may be in need of them and will not inadvertently discriminate against particular groups. Particular account will be taken of factors such as disability, age, gender, religion, race and sexual orientation.

1.7.3 Advocacy & Support

If our customers feel at any sort of disadvantage in being able to express themselves, the Council will offer them the help and support they need to have their concerns listened to and understood. This may include translation or interpretation services, or referral to sources of local independent advocacy and advice. Children and young people will be offered a formal advocacy support service commissioned through Barnardos.

1.8 Encouraging Problem-Solving

1.8.1 Local Resolution

Concerns or worries are often raised as part of normal everyday interaction between the Council and its social care customers. Normally, these will be easily resolved by the staff working directly with the customer. It is our policy to encourage staff to work with our customers to explore and resolve problems before they become

complaints. However, where this is not possible, it is our policy to investigate and answer complaints as close to where the problem occurred as possible. (See Practice Guidance on Problem-Solving)

1.8.2 Alternative Dispute Resolution/ Conciliation

We recognise that a complaint investigation may not necessarily help to improve ongoing working relationships between the customer and the staff involved. We will offer customers the opportunity to take part in conciliation, through the Customer Relations Team, to help resolve outstanding issues and improve working relationships as an alternative to, or in addition to, pursuing the different stages of the complaints procedure. (See Practice Guidance on Alternative Dispute Resolution)

1.9 Seamless services

1.9.1 The Council will develop internal protocols to ensure complaints which are subject to both the social care and corporate complaints procedures are dealt with in a co-ordinated and consistent way. Where possible complainants will receive a complete single response to their complaint. Where there is more than one lead officer involved in a complaint, consideration will be given to who will be responsible for handling the complaint and who will ensure that the complainant is kept informed. (See Protocol: Council Complaints Handling)

1.9.2 The Council will also ensure that appropriate external protocols are developed with key partner agencies, such as Health Primary Care Trusts (PCT), to ensure a similar co-ordinated approach, whilst ensuring different legislative requirements within respective agencies are met. (See Protocol: Warwickshire & Coventry Health and Social Care Complaints Handling)

1.10 Compliance with Legislation and Guidance

The children, young people and families social care representations procedure is designed to comply with the Children Act 1989 as set out in the Representations Procedure (Children) Regulations 1991, Section 117 of the Adoption and Children Act 2002, and the Health and Social Care (Community Health and Standards) Act 2003, the Representations Procedure (Children) Regulations 2006, and the policy guidance "Getting the Best from Complaints" issued by the Department for Education and Skills 2006. See Appendix 1 for full details of legislative context.

1.11 Key Process Policy Decisions

1.11.1 Eligibility

Only those categories of person specified in relevant legislation will have an automatic right to use these complaints procedures (See Section 2: Definitions)

1.11.2 Exclusion

The complaints procedure cannot be used in the following circumstances:

- If the person complaining is not eligible (See Section 2: Definitions)
- If the complaint is not about the Council's social care services, or anyone providing social care services on its behalf
- If the same complaint has already been dealt with through these complaints procedures
- If the same complaint has already been investigated by a Local Commissioner
- If the complaint is vexatious
- If an alternative statutory appeals process exists
- If the person complaining has signalled their intention to take legal proceedings in relation to the substance of their complaints

1.11.3 Complaints that do not meet statutory requirements for consideration under this procedure

Complaints which are made by people who would not normally satisfy the eligibility requirements of this statutory procedure, but who would meet the eligibility requirements of the corporate complaints procedures, and whose complaint is about the actual or potential impact social care services have on them as an individual, will be allowed to use this complaints procedure, and will be treated in the same way as other complainants within this process. See Section 2: Definitions for a detailed clarification of eligibility as defined within the legislative framework

1.11.4 Complaints which relate to issues other than these, such as service provider disputes about contracts, will not be eligible to use this procedure.

1.11.5 Ensuring reasonable, appropriate and proportionate use of this procedure

The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make

them. In a small number of cases, people may act unreasonably, inappropriately or disproportionately in the way they pursue their concerns. When a person's behaviour is unacceptable and unreasonable, restrictions will be placed on the manner in which individuals can contact the Council, and how Council staff will deal with such contacts. The Council will ensure that no substantive issue of complaint is overlooked or inadequately addressed if such restrictions are put in place. (See Protocol: Ensuring reasonable, appropriate and proportionate use of complaints procedures for further details)

1.12 Stages of the complaint procedure

1.12.1 Stage 1 Local resolution: This will normally be conducted by the local team manager

1.12.2 Stage 2 Independent Investigation: The Council will normally commission an external investigator, and the investigation will be co-ordinated and performance-managed through the Customer Relations Team.

1.12.3 Stage 3 Review Panel: The Panel will consist of three Independent People. The Customer Relations Team will commission the Panel, in consultation with the chair person they appoint

1.12.4 Freezing (deferring) decisions

Social care decisions that will have a significant effect upon the life of an individual, may be deferred until the complaint has been considered, having regard to the best interests of the service user (For more information see Section 3, paragraph 3.7)

1.12.5 Suspension

Complaint investigations may be suspended if a complaint is subject to concurrent investigation under one or more of the following procedures:

- Child protection^[WCC1]
- Court proceedings
- Grievance procedures
- Disciplinary procedures
- Criminal proceedings

This is because these are considered to have priority over the complaint investigation process. Once they are concluded, any outstanding issues of complaint can then be investigated.

1.13 Local Government Ombudsman

1.13.1 This Council will actively seek guidance and advice from the Local Government Ombudsman at any stage in the complaints investigation process, in situations where they may be able to help the Council's

understanding and interpretation of facts, and consideration of suitable options for remedy and redress (See Section 3, paragraph 3.11.9)

1.13.2 Additionally, where a reasonable and appropriate consideration of the complaint has been undertaken at Stage 2 and further consideration by the Review Panel is unlikely to produce a demonstrably different outcome, the Customer Relations Team will discuss with the customer the possibility of an early referral to the Local Ombudsman. (See Section 3, paragraph 3.9.20)

1.14 Redress & Compensation

1.14.1.1 When [WCC2] we get things wrong we are committed to trying to put them right for the individual concerned. In all such cases we will apologise. We will also explain what we will do to put things right and try to prevent it happening again to anybody. We will listen to what the complainant says they want to happen and we will make all reasonable efforts to agree solutions.

1.14.2 Financial payments are exceptional. Complaints investigators and Review Panels can make recommendations to the Council about financial payments, as indeed could the Local Government Ombudsman. However, Directors are only able to authorise payments of up to £250. Higher payments need to be approved by the Council's Regulatory Committee. This Committee will normally require the Local Government Ombudsman to have been involved in suggesting an appropriate Local Settlement figure, and will always require there to have been detailed consideration by the Council's Legal Service and Insurers Service. This is unlikely, therefore, to be the most appropriate route for a customer to pursue if their primary aim is to seek financial compensation.

1.15 Monitoring, Learning, and Quality Assurance

1.15.1 Recording and monitoring

The Customer Relations Team will record and monitor all complaints and representations received. Recording will include details of the representation, the decisions made, the action taken and any consequential issues that arose.

1.15.2 Record Management

All functions of the representations procedure will adhere to the requirements of the Data Protection Act 1998, and the Freedom of Information Act 2000.

1.15.3 A Learning Culture

The Council is committed to learning from all sorts of feedback from its customers. Compliments, suggestions, complaints and policy

representations will all be positively used to help the Council to develop and improve its social care services. This will include:

- procedure and practice guidance to ensure effective feedback loops for customers, staff, managers and senior officers.
- regular reporting to senior officer forums, and to the Children, Young People and Families Overview and Scrutiny Committee
- published annual reports

(For further information see relevant Practice Guidance)

1.16 Death, Serious Injury or Major Incident:

The Council is committed to thorough, prompt and open investigation of all situations in which a customer receiving social care services may have been at risk of death or serious injury, or have actually been seriously injured or killed, to see if there is any possibility that the actions or inactions of the Council (or people acting on their behalf) may have contributed to the incident. Whilst other statutory procedures may need to take precedence initially, e.g. criminal proceedings, Coroners Inquiry, Health and Safety investigations, it is important that customers, family and carers are made aware of their right to raise concerns about the incident through this complaints procedure, and that the Customer Relations Team is alerted quickly to such incidents and actively involved in the Council's internal review and response to any such incident.

SECTION 2 DEFINITIONS

2.1 Defining compliments, suggestions, representations and complaints

2.1.1 Compliment

- An expression of praise or admiration.

2.1.2 Suggestions

- A suggestion is a proposal for change or improvement

2.1.3 Representations against policy

- A complaint about the way the Council has complied with and/or interpreted legislation, government guidance or other relevant advice in developing its policies.

2.1.4 Complaint

- A complaint is defined as an expression of dissatisfaction or disquiet which requires a response.

2.2 What may be complained about?

2.2.1 Local authority social care functions for children and families which are subject to this complaints procedure are set out in the Children Act 1989 and the Adoption and Children Act 2002, as specified under The Children Act 1989 Representations Procedures (England) Regulations 2006.

2.2.2 Local authority functions under Part III of the Children Act 1989, sections 17 - 30, and powers and duties set out in Part 1 of Schedule 2 include:

- identifying “children in need”
- assessing children’s needs
- providing services for children “in need”, their families and others (including children with disabilities)
- providing (or commissioning) day care and pre-school services for children “in need”
- reviewing children’s needs
- safeguarding the welfare of children – child protection inquiries
- providing accommodation and maintenance for “looked after” children

- promoting or maintaining contact between child and family
- co-operating with other local authorities, local education authorities, local housing authorities, and other relevant agencies or people in the exercise of these functions, where this is compatible with their statutory or other duties and obligations.
- recovery of charges for services

2.2.3 New functions from the Children Act 1989 Part IV and V included in the 2006 Regulations are:

- Decisions surrounding the initiation of care proceedings, including child assessment orders, emergency protection orders, supervision and care orders for young people at risk of harm,
- Decisions about parental or other contact with the young person subject to care proceedings
- The exercise of corporate parental responsibility in relation to the child
- Any inquiries made under Section 47 to protect a child or young person from significant harm

2.2.4 Further regulations as part of the implementation of the Adoption and Children Act 2002 have set out that the following adoption-related functions may also be subject of a complaint:

- Local authority considering adoption for a child (part 3 of Adoption Agency Regulations)
- A proposed placement of a child with prospective adopters (part 5 of Adoption Agency Regulations)
- Placement and reviews (part 6 of Adoption and Agency Regulations)
- Records (part 7 of Adoption and Agency Regulations)
- Modification of the Children Act 1989, parental responsibility and contact (part 8 of Adoption and Agency Regulations)
- Financial support for adoptive parents
- Support groups for adoptive parents
- Assistance in relation to arrangements for contact between an adoptive child and another person
- Services in relation to the therapeutic needs of an adoptive child
- Assistance to ensure the continuance of the relationship between the child and his adoptive parent
- Assistance where disruption of an adoption placement/arrangement has occurred or is danger of occurring

2.2.5 Special Guardianship Regulations 2005 came into force on 30 December 2005. The following functions may be the subject of a complaint:

- Financial support for special guardians;
- Support groups for children;
- Assistance in relation to contact;
- Therapeutic services for children; and
- Assistance to ensure the continuation of the relationship between the child and their special guardian or prospective special guardian.

2.2.6 The Care Standards Act 2000 requires regulated providers to have their own complaints procedures, which are themselves subject to Regulations and national minimum standards. (See Protocol: Complaints about Regulated Service Providers)

2.3 What can't be complained about?

2.3.1 The complaints procedure cannot be used when:

- the person wishing to complain does not meet the requirements of "who may complain," (see section 2.4) and is not acting on behalf of such an individual
- the complaint is about actions and decisions of another local authority, agency or body (e.g. Police or Court decisions):
- it repeats a complaint which has already been looked at under these complaints procedures
- it has already been investigated by a Local Commissioner
- it is vexatious
- the complainant has indicated they intend to take legal proceedings in relation to the substance of the complaint
- services for which an alternative statutory appeals process already exists

2.3.2 Concurrent Investigations

Whilst recognising the importance of complaints investigations, the Council must be careful not to compromise or prejudice other procedures, for example:-

- child protection
- protection of vulnerable adults
- court proceedings
- grievance procedures
- disciplinary procedures

- criminal investigations

2.3.3 Decisions on how to proceed in such situations will be taken on a case by case basis by the Customer Relations Manager. The Customer Relations Manager has the discretion not to commence or to suspend complaints investigation if to proceed would compromise another procedure. However, where there remain issues to be investigated, the complaint investigation will start or resume once the concurrent investigation is discontinued or completed.

2.3.4 People who wish to complain about their detention under the Mental Health Act 1983 can appeal against their detention to the Mental Health Review Tribunal. However, complaints about the process of the assessment and the Approved Social Worker's actions during the process are covered by the social care complaints procedures and the Customer Relations Team will pursue their complaint through the social care procedures^[WCC3].

2.4 Who may complain?

2.4.1 Section 26 (3) and section 24D of the Children Act 1989 and section 3 (1) of the Adoption and Children Act 2002 define who may use the statutory procedure as:

- 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 to whom arrangements for the provision of adoption services extend;
- adopted persons, their parents, natural parents and former guardians; and
- such other person as the local authority consider has sufficient interest in the child or young person's welfare to warrant his representations being considered by them.

2.4.2 The Children Act 1989 gives the Council discretion to decide in cases where eligibility is not automatic whether or not an individual has sufficient interest in the child's welfare to justify his own complaint being considered by them. In reaching a decision, the Council will check with the child or young person (subject to their age and understanding) that he or she is happy for the person to make the complaint.

2.4.3 We use "The Fraser Guidelines" formerly known as "The Gillick Competence Test" (1985 case law) to determine whether children under 16 have sufficient understanding and intelligence to comprehend fully their choices and the consequences of their decisions.

2.4.4 Complaints made on behalf of a Child

Subject to the child/young person's understanding, the Council should always confirm whether the complaint is being made on his behalf and that the complaint submitted reflects his views.

2.4.5 Where the complaint is received from a representative acting on behalf of someone in these circumstances, the Council has the discretion to decide whether or not the person is suitable to act as a representative or has sufficient interest in the individual's welfare. If the Customer Relations Team considers that the representative is unsuitable or does not have sufficient interest, they must notify them in writing, explaining that no further action will be taken. The Customer Relations Team should discuss this decision with relevant operational managers as appropriate.

2.4.6 Anonymous complaints

Anonymous complaints should always be recorded and referred to the Customer Relations Team in the same way as other complaints. Anonymous complaints fall outside of the scope of the statutory procedure and it is for the Customer Relations Team to decide what action it should take. The fact that the complaint is from an anonymous source is not enough in itself to justify a decision not to pursue the matter. Nor should it rule out referral to other procedures as relevant.

2.4.7 Complaints relating to more than one local authority

This Council retains responsibility for investigating complaints in respect of people who are ordinarily resident (or from those acting on their behalf) within our local authority area, but who are living in the area of a different local authority at the time of the issue of the complaint. However, on a case by case basis, it may be agreed to delegate the investigation task to the local authority where the child or young person was temporarily residing at the time of the complaint. The adjudication responsibility will always remain with this Council. This Council will seek to respond to any similar investigation request from another local authority in a similar reciprocal way.

2.5 Withdrawal of a complaint

- 2.5.1** A complainant or their advocate may withdraw the complaint either verbally or in writing at any time. The Customer Relations Team will write to the complainant and advocate confirming the withdrawal of the complaint.
- 2.5.2** In certain cases where complaints are withdrawn, it may be necessary to continue the investigation to ensure the Council has followed practice, policy or procedural guidance or that the Council has discharged its statutory obligations. The decision to terminate or continue the investigation will be made by the Customer Relations Team.
- 2.5.3** Complaints made by children and young people, which are withdrawn before the completion of an investigation, will need to be considered carefully. Any child or young person who withdraws a complaint must be contacted to determine why the complaint has been withdrawn and whether it would be in the child's best interests to pursue the investigation further.

SECTION 3 THE COMPLAINTS PROCEDURE

3.1 Introduction

3.1.2 The handling and consideration of complaints consists of three stages:

- Local resolution – Stage 1
- Investigation – Stage 2
- Review Panel – Stage 3

3.1.3 The timescales in working days for the Council to act within are^{[WCC4][WCC5]}:

- 10 working days at Stage 1 (with a further 10 working days for more complex complaints or if advocate is required);
- 25 working days at Stage 2 (with maximum extension to 65 working days)
- 30 working days to organise and hold the Review Panel at Stage 3;
- 5 working days for the Panel to issue its findings;
- 5 working days for the Strategic Children's Director to respond to the findings;
- for those complaints that reach the end of Stage 3, a total overall timescale to complete final consideration of the complaint from Stage 1 to Stage 3 will be six months at the maximum.

3.1.4 The timescales for complainants to respond within are:

- 20 working days to request a Stage 2 investigation at the conclusion of Stage 1
- 20 working days to request a Stage 3 Review Panel at the conclusion of Stage 2
- 1 year to request the Local Government Ombudsman to look at any continuing concerns after the completion of Stage 3^[WCC6]

3.2 Receiving a complaint

As soon as it becomes apparent that someone wishes to make a complaint, they must be informed about the Council's complaints procedure and how to contact the Customer Relations Team. Complaints may be made to any member of staff verbally or in writing or electronically.

If a complaint is received the Customer Relations Team must be informed as soon as it is reasonably practicable. The Customer Relations Team will register the complaint from the date it was first received in the Council. The complainant will then be told how the Council will respond to their complaint.

The complainant retains the right to approach the Local Government Ombudsman at any time. However the Local Government Ombudsman will ordinarily expect the Council to consider the complaint initially and may refer the complaint back to the Customer Relations Manager if this is not done.

3.3 Time Limit for making a complaint

There is a one-year time limit for making complaints or representations. However, decisions on whether to make an exception to this will be made on a case-by-case basis by the Customer Relations Manager. The Customer Relations Manager will write to the complainant to explain whether the exception can be made or not and the reasons. The response will also advise the complainant of their right to approach the Local Government Ombudsman.

3.4 Advocacy and Support

All staff receiving complaints, and in particular the Customer Relations Team, will proactively consider whether advocacy or other support might help the complainant to express their concerns and use the complaints procedure successfully, and will promptly refer complainants to appropriate sources for support. Young people will be encouraged to access the advocacy support service Warwickshire County Council commission for them from the Barnardo's project.

3.5 Alternative Dispute Resolution

This Council recognises that complaints procedures may not, in themselves, enable damaged working relationships between staff and customers to be repaired. The Customer Relations Team will identify when a conciliation approach may be needed in addition to, or instead of action within the complaints procedures. Complainants and staff will be offered the opportunity for conciliation in these circumstances

3.6 Clarifying the Complaint

3.6.1 Many complaints received are clear and contain the level of detail needed to enable them to be investigated straight away. In such cases, the timescales for the Council completing the complaint process starts from the moment that complaint is made to any member of staff.

3.6.2 However, if the complaint needs to be clarified, urgent action will be taken by the Customer Relations Team to do this with the complainant. In such cases, the timescale for the Council completing the complaints process will start from the moment that the complaint has been clarified and agreed with the complainant.

3.7 Freezing Decisions

3.7.1 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 should always be given to deferring a decision that will have a significant effect upon the life of an individual until the complaint has been considered, having regard to the best interests of the service user.

3.7.2 The decision to defer will normally be made through detailed discussion and risk assessment between the Customer Relations Manager and the Manager responsible for the service, within the context of the work being undertaken with the service user. Decisions need to be made on a case by case basis, but there should be a presumption in favour of freezing unless there is a good reason not to. In cases where decisions are met with opposing views, the relevant Senior Manager should be consulted to provide an ultimate decision.

3.8 Stage 1 Local Resolution

3.8.1 The focus of Stage 1 is on encouraging dialogue and exchange of information between the complainant and the Team Manager, exploring and explaining the thinking behind decisions, and agreeing a way forwards. The Team Manager is responsible for making all relevant local enquiries to ensure that this can be a meaningful and informed review, which can be completed quickly.

3.8.2 The expectation is that the majority of complaints will be considered and resolved at Stage 1. If the Customer Relations Manager believes that it would not be appropriate to consider the complaint at Stage 1, this can be discussed with the complainant. Where both parties agree, the complaint can move directly to Stage 2. Where one party disagrees with using the Local Resolution at Stage 1, the Customer Relations Manager will make the final decision on proceeding directly to Stage 2.

3.8.3 The Team Manager dealing with the complaint will send a letter to the complainant confirming the final outcome of their enquiries. The Customer Relations Team must be informed of the outcome as soon as possible. If the complainant is a child, a meeting should be set up to confirm the agreed outcome or resolution.

3.8.4 The complainant will be informed by the Customer Relations Team that they have the right to move the matter on to Stage 2 if the timescale has elapsed at Stage 1, or if their complaint has not been resolved to their satisfaction. This period of time can be extended with the complainant's agreement or may be requested due to other circumstances. However, if at any time, the complainant then decides that they want to move their complaint on and start Stage 2, the Customer Relations Team must be informed immediately. The Customer Relations Team will initiate any Stage 2 investigation.

3.8.5 Summary of Stage 1 process

Timescale	Action
Within 1 working day	Logged with Customer Relations Team Identify if an advocate is needed. Suspension of the complaint for no more than 10 days whilst advocacy is arranged.
Within 2 working days of confirming complaint details	Complaint sent to Team Manager and complainant informed in writing how issues will be responded to.
Within 10 working days	Team Manager will complete local enquiries and share outcome with complainant. NB. If extension of timescale needed Team Manager will discuss with complainant and Customer Relations Team.
5 working days after the complaint enquiries concluded	Customer Relations Team will write to complainant to ask if they are satisfied with outcome of Stage 1 enquiries. The complainant will be advised that they have 20 working days to request Stage 2 if they remain unhappy.
After 20 working days	If no request is received to progress to Stage 2, consideration of the complaint is ended.

3.9 Stage 2 Investigation

3.9.1 Where the complaint has not been resolved under the Stage 1 Local Resolution and the complainant has decided that they want to move to a Stage 2, a Stage 2 Investigation will be commissioned by the Customer Relations Team

- 3.9.2** The Stage 2 investigation provides comprehensive, open, transparent and fair consideration of the complaint, with a formal written report of the investigation, and a senior manager of the Council considers and responds to the investigation report.
- 3.9.3** Once the complainant has decided that they want a Stage 2 investigation, the Customer Relations Team will ensure that the details of the complaint and the complainant's desired outcomes are recorded in writing and agreed with complainant.
- 3.9.4** The Customer Relations Team will appoint an Investigating Officer to investigate the complaint and prepare a written report for adjudication by a senior manager of the Council. The Investigating Officer may be employed by this Council but will normally be someone independent of the Council appointed specifically to carry out the investigation and prepare the report. The Investigating Officer will not directly line-manage the service or person about whom the complaint is being made. The Customer Relations Team will also appoint an Independent Person to the investigation. This person will be separate and in addition to the Investigating Officer and will also have full access to all aspects of the investigation. Their role is to ensure the investigations' fairness and transparency, and in particular that the views and needs of the young person are properly considered.
- 3.9.5** The Investigating Officer will confirm the detail of the complaint with the complainant and their expectations for resolution. Once this is agreed, the Investigation timescale will start.
- 3.9.6** The Investigating Officer, Independent Person and the Customer Relations Team will then plan how the investigation will be carried out. The Investigation Officer will ensure that the complainant is informed of progress of the investigation.

Stage 2 Investigation Timescale

- 3.9.7** The timescale for the Stage 2 investigation can only start once the details of the complaint and the complainant's desired outcomes are recorded in writing and agreed with the complainant. In some cases the complainant will have provided all this information from the outset and the timescale will start immediately. However, in some cases further clarification is needed, and this will normally be the responsibility of the Investigating Officer in liaison with the Customer Relations Team.
- 3.9.8** If the complainant amends or adds to the agreed written record of complaint at a later point in the investigation, the Stage 2 timescale starts again from the date that the record was amended.
- 3.9.10** The Investigation should be completed and the Directorate response sent to the complainant within 25 working days from the date on which the complaint was agreed. It is recognised that this will be impractical

in some cases, and Regulations allow this to be extended in certain circumstances to a maximum of 65 working days.

3.9.11 Extensions will only be agreed exceptionally. The Customer Relations Team must agree all extensions. Communication will be maintained with complainant and where possible a mutual agreement reached as to what is reasonable where the 25 working days is not feasible.

3.9.12 Possible reasons for extension might include^[WCC7]:

- where the complaint involves several agencies or all or some of the matters concerned are the subject of a concurrent investigation
- if the complainant has asked for a later response.
- if the complaint is particularly complicated
- if a key witness is unavailable for part of the time

3.9.13 Where it is not possible to complete the investigation in the 25 working day period, it must be done no later than 65 working days from the date on which the written complaint was agreed. The complainant will be informed as soon as possible in writing of the:

- delay and reason for it and
- the date by which they will receive a response

3.9.14 The Investigating Officer must produce a detailed draft report, to a specified format and standard, for review by the Customer Relations Team. The Customer Relations Team will review the content and quality of the report, and ensure that the draft is checked for factual accuracy. The report will be finalised by the Investigating Officer. Where an Independent Person has also been involved, they will produce a short report commenting upon the investigative process followed. The Investigating Officer and Independent Person reports will then be sent to the Adjudicating Officer.

3.9.15 The Adjudication Process

The Adjudication Officer will be a Senior Manager who will report to the Strategic Director of Children, Young People and Families. The Adjudication Officer may need to meet with the Customer Relations Team, Investigating Officer and Independent Person to clarify aspects of the report. The Adjudication Officer may need to meet with the Customer Relations Team in drafting the adjudication. The Adjudication Officer will then write to the complainant confirming their response to the report, any actions they will be taking and their timescale for implementation.

3.9.16 The Adjudication Officer will normally offer to meet the complainant to discuss the response and any actions they propose. This is called the Adjudication Meeting. This can be held prior to the Adjudication Officer writing their adjudication or afterward.

3.9.17 The adjudication letter will inform the complainant of their right to a Stage 3 Review Panel if they remain unhappy and that they must inform the Customer Relations Team in writing that they wish to take this up within 20 working days. The decision to move to a Review Panel will be at the discretion of the Customer Relations Team. If no request to proceed to Stage 3 is received from the complainant within 20 days, then consideration of the complaint is ended.

3.9.18 The Adjudication Officer will ensure that any recommendations contained in their response are actioned. The Customer Relations Team will monitor the progress of the action plan.

3.9.19 Summary of process for Stage 2

Timescale	Action
Within 5 working days	Initially clarify basic complaint details and desired outcomes
Within next 5 working days	Customer Relations Team appoints an Investigating Officer and Independent Person (if appropriate)
Within 10 working days	The Investigating Officer contacts the complainant and clarifies further complaint detail and investigation process needed
Within 25 working days	The investigation will be completed unless extension agreed by complainant. If the complainant changes basis of the complaint, the 25 working days timescale starts from the adjustment
Within 5 working days	The Senior Manager (Adjudication Officer) will write to the complainant confirming response to report. The Adjudication meeting may be before or after this
After 20 working days of Adjudication letter or Adjudication meeting, whichever is latter	If no request to proceed to Stage 3 is received from complainant, the complaint is closed

3.9.20 Early referral to Local Government Ombudsman

The Customer Relations Team may discuss with the complainant whether the complaint is suitable for early referral to the Ombudsman, if the complaint has been upheld at Stage 2 and Stage 3 is unlikely to be able to add further to the Directorates consideration. The Adjudication Officer will liaise with Customer Relations Team to ensure all relevant people are advised of the outcome of the Adjudication.

3.10 Stage 3 Review Panel

3.10.1 The Review Panel is an open review focusing on achieving understanding of the complainant's continuing concerns and identifying any practical remedies or creative solutions which might help the Council to resolve these. It is not a quasi-judicial process. Complainants are encouraged to bring a representative to speak on their behalf if they feel this will help them, but legal representation is not allowed.

3.10.2 The Stage 3 Review Panel will be convened where a complainant has concluded the Stage 2 of the complaints procedure and the complainant wishes to proceed to a Review Panel.

3.10.3 Requests to Stage 3 should specify as precisely as possible what in relation to the Council's response to the complaint the Panel is being asked to review and what action or measures are needed to satisfy the complainant.

3.10.4 The Review Panel should be scheduled to meet within 30 days of the receipt of the request for a Review or the date that the necessary clarification of what the Panel is being asked to review is received. The Customer Relations Team will oversee the arrangements for appointing the Chair and other panellists, and convening the meeting. The Chair will be involved in deciding the arrangements for the Review Panel. The Panel will consist of 3 Independent People.

3.10.5 An Independent Person cannot be a current employee of the Council, or a spouse or civil partner of an employee or member of the Council. At least 3 years must have elapsed before former council staff can be considered eligible to act as Independent People.

3.10.6 The purpose of the Review Panel will be to look at:

- whether or not the complaints process was carried out properly and fairly.
- whether or not the conclusions reached by the investigators on the basis of the material available were reasonable and fair.
- whether or not action taken by the investigators on the basis of any conclusion reached was appropriate, having regard to all the circumstances.
- whether or not the complainant's expectations for resolution have been met and whether or not more can be done to help to achieve this.

3.10.7 The Review Panel will not re-investigate the complaint, nor will it consider any substantively new complaints which have not first been considered at Stage 2.

3.10.8 Organisation (setting up) of the Review Panel

The Customer Relations Team has overall responsibility for delivering the Panel process. The Review Panel will be provided locally and with due regard to the complainant's availability and convenience. The complainant will be notified of the Panel's date and location in writing at least 10 working days before the Review Panel meets.

3.10.9 Panel papers will be sent to all attendees as soon as these have been agreed by the Chair and no later than 10 working days before the date of the Panel. These will normally include:

- information on Stage 1(as relevant);
- the Stage 2 investigation report(s);
- the local authority's adjudication;
- any policy, practice or guidance information relevant to the complaint;
- any comments that the complainant has submitted to the Panel;
- information on the local practice around Panels, such as start time, conduct, roles and responsibilities.

3.10.10 The Chair of the Review Panel will make the final decision on circulating any further written material to the other attendees outside of the timescales.

3.10.11 If any complaint is lodged on the day by the complainant, about the proceedings, this will be recorded and the Panel will take a view on the need for further action and record their decision.

3.10.12 Attendance at Panel

3.10.13 The complainant has the right to attend the Panel and will be informed of this right and assisted to attend as appropriate. Complainants will be informed of their entitlement to be accompanied by another person and for this person to speak on his behalf. If this person is a qualified lawyer they must not be attending in their professional capacity.^[WCC8]

3.10.14 The persons involved with the investigation at Stage 2 (i.e. the Investigating officer, the Independent Person, the Adjudication Officer) will be invited to attend and contribute as relevant to their roles. Should any of these persons' unavailability cause an inordinate delay in holding the Panel; the Chair will take a view on proceeding without them present^[WCC9].

3.10.15 The Customer Relations Officer who has overseen the investigation will attend the Panel to answer any questions relating to the individual complaint handling process for the case. This Authority

will proceed with the Panel in the complainant's absence at the complainant's request. Should the complainant fail to attend a scheduled Panel on more than one occasion, the Panel will proceed without them.

3.10.16The Customer Relations Manager will also attend the Panel to provide advice and guidance to the Panel on the Council's complaints procedures and the role and remit of the Panel, and to provide administrative support.

3.10.17The Chair will make the final decision as to who should be in attendance (including asking specific members of the Authority to be available to provide specialist advice or opinion).

3.10.18 Deliberations

The Panel will go into closed session to deliberate on their findings and conclusions. The Customer Relations Manager will attend to provide administrative support only.

3.10.19 The Panel will record its findings of the meeting and will notify the complainant and the Authority in writing within 5 working days. The findings will explain any recommendations and the reasons for them. If a Panellist disagrees with the majority recommendation, response should also record the Panellist view and the reason for it.

Summary of Stage 3 Process

Timescale	Action
Up to 20 working days after receipt of the Stage 2 adjudication	Complainant requests Review Panel
Within 2 working days	Customer Relations Team acknowledges request
Within 30 working days of the complainant's request for Review Panel (or when clarification is received)	Panel Hearing convened
Within 5 working days after the Panel has met	Review Panel produces its findings (including any recommendations)
Within 5 working days after receiving Review Panel's findings	Strategic Director of Children, Young People and Families issues written response to complainant with timescales for any actions and advises of the right to progress to the Local Government Ombudsman

3.11 The Local Government Ombudsman

3.11.1 The Commission for Local Administration in England (CLA) or Local Government Ombudsman service was established under Part III of the Local Government Act 1974 (the Act) as an independent body responsible for investigating complaints of alleged injustice arising from maladministration on the part of local authorities and of certain other bodies.

3.11.2 There are three Local Government Ombudsmen in England and they each deal with complaints from different parts of the country. Warwickshire County Council are currently dealt with by their York Office.

Anne Seex
Local Government Ombudsman
Beverley House
17 Shipton Road
York YO30 5FZ
Phone: 01904 380200
Fax: 01904 380269
Email: enquiries@lgo.org.uk

3.11.3 They investigate complaints about most council matters including housing, planning, education, social services, consumer protection, drainage and council tax. It is an independent, impartial and free service^[WCC10].

The objective of the Ombudsmen is to secure, where appropriate, satisfactory redress for complainants and better administration for councils.

3.11.4 The Ombudsman can investigate complaints about how the council has done something. But they cannot question what a council has done simply because someone does not agree with it.

3.11.5 The Local Government Ombudsman cannot investigate anything that has or had a remedy by way of a court of law unless the Ombudsman is satisfied that, in the particular circumstances, it is not reasonable to expect the person aggrieved to have resorted or to resort to court proceedings.

3.11.6 The Local Government Ombudsman would normally expect a complainant to have had their complaint investigated at all stages of the council's complaints procedures before they will consider looking into their complaint. If a complainant contacts the Local Government Ombudsman earlier, this will normally be referred back to the Council as a "premature" complaint, for the council to register within its own complaints procedures. Occasionally, the Local Government Ombudsman may use their discretion to decide to investigate at this earlier stage.

3.11.7 The complainant as the end of the Council's Stage 3 process has one year to decide whether or not they wish to ask the Local Government Ombudsman to look into any continuing concerns they may have.

3.11.8 The Council is obliged to cooperate promptly and fully with all enquiries from the Local Government Ombudsman, and with any investigation they decide to make into the issues that the complainant has raised with them.

3.11.9 The Local Government Ombudsman encourages Local Settlement of complaints wherever possible. They are keen to support Councils in providing fair remedies and making necessary improvements where Council's have accepted they are at fault. If a Council can demonstrate this, the Local Government Ombudsman is unlikely to investigate further.

3.11.10 Should a Council disagree that they are at fault, and be unable to arrange a Local Settlement, the Local Government Ombudsman can decide to conduct a full investigation. This may result in one of three conclusions:

- no maladministration
- maladministration which has not caused Injustice
- maladministration causing Injustice

3.11.11 If a finding of Maladministration is made, the Local Government Ombudsman will produce a formal report to the Council, recommending what they should do to put things right. If the Council does not respond satisfactorily, the Local Government Ombudsman can require the Council to publish a statement in local press detailing the actions recommended by the Local Government Ombudsman, and explaining its reasons for not complying with their recommendations.

Section 4 Suggestions, Compliments and Representation Procedures

4.1 Suggestions for how to improve services

The suggestion may be received in writing, by the telephone, or during meetings and is likely to be received by the team or unit involved. All suggestions must be registered, and what action will be taken by the team or unit manager to consider them, with the Customer Relations Team within 10 working days. The suggestion should be acknowledged within 5 working days, and a full response sent to the customer within 10 working days explaining what will be done about the suggestion. All suggestions are considered as part of the learning and service development approach, and are reported on to senior managers and councillors as part of our annual reporting programme.

4.2 Compliments

The compliment may be received in writing, by the telephone, or during meetings. All compliments must be forwarded to the Customer Relations Team. The Compliments will be registered and a letter of acknowledgement will be sent to the person making the compliment within 5 working days. The Team Manager will be asked to share the compliment with the individual and/or team members consider what best practice this demonstrates, and how this might be shared within the Council to improve services for all. All compliments are considered as part of the learning and service development approach, and are reported on to senior managers and councillors as part of our annual reporting programme.

4.3 Representations against Council policy

4.3.1 Sometimes, as well as issues of complaint relating to individuals, customers will also make a representation against Council policy. It is important to separate out issues of individual complaint when someone challenges how the Council has interpreted its powers or duties, i.e., they are raising issues which potentially affect how the Council provides services for a group of people. The way the policy has been applied in individual circumstances falls to be reviewed within the complaints process. This will ensure that the policy has been applied properly and that there are no reasons why an exception to it should be made in this individual case. Once this has been established, if the customer remains unhappy about the Council interpretation of its powers and duties, this should be registered with the Customer Relations Team as a representation against policy.

4.3.2 The representation will be registered and the Customer Relation Team will send a letter of acknowledgement to the person making the representation within 5 working days. A Senior Manager will be asked to respond. This response should explain why the Council has interpreted its duties and powers in the way that it has, and advise how the individual's views about this will be included in future reviews of policy, procedure and practice guidance. All representations against policy are considered as part of the learning and service development approach, and are reported on to senior managers and councillors as part of our annual reporting programme.

Summary of Suggestions, Compliments and Representation process

Suggestions	Compliments	Representation against policy
Within 1 working day, the suggestion is registered with Customer Relations Team	Within 1 working day, compliment is registered with Customer Relations Team	Within 1 working day, the representation is registered with Customer Relations Team
Within 5 working days an acknowledgement letter is sent	Within 5 working days, an acknowledgement letter is sent	Within 5 working days, an acknowledgment letter is sent.
Within 3 working days, Team Manager to investigate whether action is to be taken	Within 3 working days, Team Manager to share the compliment with individual or team member.	Within 10 working days, a Senior Manager will respond.
If the suggestion is received and actioned by the team, this must be retrospectively registered with Customer Relations Team within 10 working days	If the compliment is received and actioned by the team, this must be retrospectively registered with Customer Relations Team within 10 working days	

APPENDIX 1

LEGISLATIVE FRAMEWORK

Warwickshire County Council has a statutory duty under the Children Act 1989 to 'establish a procedure for the consideration of representations and complaints'.

The guidance is for representation including complaints made by children and young people and it also applies to parents, foster carers and other relevant adults making a complaint.

These policy and procedure documents replace the Social Services Departments previous guidance on Children and Adult Complaints Procedures. These new procedures came into force from 1 September 2006.

These policy and procedure documents reflect the changes made by the Children Act 1989 Representations Procedure (England) Regulations 2006, and the section 7 guidance Getting the Best From Complaints 2006, published by the Department for Education and Skills.

This policy and procedure should be read in conjunction with other legislation and guidance relevant to the handling of complaints such as:

- Mental Health Act 1983
- Children Act 1989
- Disability Discrimination Act 1995
- Human Rights Act 1998
- Public Interest Disclosure Act 1998
- Data Protection Act 1998
- Freedom of Information Act 2000
- Care Standards Act 2000
- Local Government Act 2000
- Children (Leaving Care) Act 2000
- Race Relations Amendment Act 2002
- Adoption and Children Act 2002
- Implementation Handbook on the UN Convention on the Rights of the Child, 2002
- Health and Social Care (Community Health and Standards) Act 2003

Additional relevant advice and guidance include:

- *National Minimum Standards*, published by the Secretary of State under the Care Standards Act 2000;
- *Performance Assessment Standards*, published by the Department of Health.
- *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*. London: HMSO, 1999. (Department of Health, Home Office, Department for Education and Employment)
- Morgan, R. *Children's Views on Complaints Procedures and Advocacy: Report of the Children's Rights Director*. London: National Care Standards Commission, 2003.
- *Independent Reviewing Officers Guidance, Adoption and Children Act 2002: The Review of Children's Cases (Amendment)(England) Regulations*. London: Department for Education and Skills, 2004.
- *Get it Sorted: Providing Effective Advocacy Services for Children and Young People making a Complaint under the Children Act 1989*. London: Department for Education and Skills, 2004.
- *Young People's Guide to Advocacy Guidance*. London: (Department for Education and Skills) Voice for the Child in Care / The Who Cares? Trust, 2004.
- *National Standards for the Provision of Children's Advocacy Services*. London: Department of Health, 2002.
- *Local Safeguarding Children Boards Guidance, included in Chapter 3 of Working Together to Safeguard Children*, 2006 (Department for Education and Skills)

Appendix 2

List of Key Protocols Relevant to these Procedures

- **Handling Complaints with Disciplinary Issues**
- **Handling Complaints about Regulated Residential and Domiciliary Care Service Providers**
- **Handling Complaints about Child Protection**
- **Interaction between Complaints and Family Proceedings**
- **Complaints and Allegations: Fostercarers**
- **Advocacy Services for Children and Young People**
- **Complaints about Processing of Personal Information**
- **Co-ordinating Complaints Responses across the Council**
- **Co-ordinating Complaints Responses across Social Care and NHS bodies in Coventry and Warwickshire**
- **Ensuring Reasonable, Appropriate and Proportionate Use of Complaints Procedures**

List of Practice Guidance Under Development

- **Publicizing and Making Complaints Services Accessible**
- **Problem-Solving – All Staff**
- **Advocacy**
- **Alternative Dispute Resolution**
- **Identifying the Right Procedures to Follow**
- **Options for Remedies and Redress**
- **Guidance for Team Managers on how to Conduct Stage 1 Enquiries**
- **Guidance for Senior Manager on Supporting the Problem-Solving Role of Team Managers at Stage 1**
- **Guidance for Investigating Officers on how to Conduct Stage 2 Investigations**
- **Guidance for Independent People on their Role in Stage 2 Investigations**
- **Guidance for Senior Managers on their Role as Adjudication Officers at Stage 2**
- **Guidance for Independent People on their Role at Stage 3 Review Panels**
- **Guidance for Independent Chairpersons on their Role at Stage 3 Review Panels**
- **Guidance for Senior Management Adjudicating Officers on their Role at Stage 3 Review Panels**
- **Guidance for Investigating Officers on their Role at Stage 3 Review Panels**
- **Guidance for Stage 2 Independent People on their Role at Stage 3 Review Panels**
- **Guidance for Directors on their Role in Responding to the Recommendations of Review Panels**

- **Ensuring Organisational Learning**
- **Supporting Staff**