



Children Act 1989 Statutory Complaints Policy



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London Borough of Richmond upon Thames

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Contents Page

	Page Number
1. Introduction	4
2. Legislation and what can be complained about	4
3. Who can use this process	5
4. Time limit for making a complaint	6
5. Exclusions from the Children's Act 1989 Complaints Procedure	6
6. Complaints that cross with other procedures – Child Protection Conference Complaints/legal/historic abuse	6
7. Corporate Complaints	7
8. Exclusions from the 1989 Children's Act Statutory complaints procedure	8
9. How to make a statutory complaint	9
10. The 3 stage Statutory Complaints Process	9
11. Advocacy, support and Reasonable Adjustments	10
12. Local Government and Social Care Ombudsman	12
13. Anonymous complaints	12
14. Data Protection and Freedom of Information	12
15. Learning from complaints and quality assurance	13
16. Recording and Monitoring	13
17. Unreasonable Complainant Behaviour	14

1. Introduction

We aim to make sure you are happy with our services. If, however, you are unhappy about any aspect of our services, please complain to us.

There are times when things go wrong, and as part of our commitment to high-quality services we want to listen to your complaints. Children's Services are delivered by Achieving from Children on behalf of Richmond Council. Achieving for Children welcome complaints as they are another way of ensuring services are effective, personal and safe. This is because listening to the experiences of people who receive services helps to improve quality. When mistakes are put right, future problems can be avoided.

We define a complaint as 'An expression of dissatisfaction about a council service (whether that service is provided directly by the Council or by a contractor or partner) that requires a response.'

When making a complaint you should expect:

- To be treated with courtesy and respect
- Reasonable Adjustments as appropriate (under the Equalities Act 2010) to help you understand the complaints procedure and make your complaint
- That your complaint is investigated efficiently and properly
- A timely response with a clear outcome and any learning that will take place

2. Legislation and what can be complained about

There is a legal requirement for the Local Authority to have in place a complaints procedure, in accordance with Sections 24(D) and 26 of the Children Act 1989 and the Children Act 1989 Representations Procedure (England) Regulations 2006 and the accompanying statutory guidance published by the DfE.; Getting the Best from Complaints: Social Care Complaints and Representations for Children, Young People and Others (01.09.2006) for the management of social care complaints.

There is also a legal duty for the Local Authority to have in place advocacy arrangements for children and care leavers who wish to make representations or complaints regarding Children's Services and their care pursuant to the Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004. Alongside these Regulations there is statutory guidance entitled Providing Effective Advocacy Services for Children and Young People Making a Complaint under the Children Act 1989.

This complaints procedure covers complaints about the Council's actions under Part 3 and some of Parts 4 and 5 of the Children's Act 1989. These are:

- Children in Need
- Looked after Children and Care Leavers
- Special Guardianship Support

- Post-adoption support.
- Child assessment orders and emergency protection orders and decisions about a child returning if removed.

3. Who can use this process

This procedure is for children, young people and those closely connected to them such as:

- Any child or young person who is being looked after by the local authority or is not looked after but in need (or a person who has parental responsibility). This includes children and young people who may be fostered, adopted or under Special Guardianship
- Children leaving care
- An advocate representing a child or young person
- Local authority foster carers (including those placed through independent fostering agencies)
- Special Guardians or a child or young person to whom a special guardian order is in place
- Persons wishing to adopt a child
- Any person who has applied for an assessment under section 14F (3) or (4) a person's needs for special guardianship support services.
- Any other person as the local authority consider has sufficient interest in the child or young person's welfare to warrant their representations being considered by them.

If a complaint is made on behalf of a child (such as by a person with parental responsibility), the Children's Act 1989 gives discretion to local authorities to decide in cases where eligibility is not automatic, whether the individual has sufficient interest in the child's welfare to justify making the complaint.

The Complaints Manager may request written consent if a child or young person is 16 years old or over, or under the age of 16 if the child or young person is determined as Fraser Competent. This means the child or young person is of sufficient age and understanding to fully appreciate the complaint.

4. Time limit for making a complaint

You should make your complaint within 12 months of when the incident being complained about took place.

The Council may agree to investigate a complaint that is made 12 months after the incident if you had good reasons for not making the complaint within the time limit, or the Council decides it is still possible to investigate the complaint effectively and fairly. This is at the discretion of the Complaints Manager.

5. Exclusions from the Children's Act 1989 Statutory Complaints Procedure

The following areas tend to be exempt:

- Early Help
- Child Protection
- S47 enquiries and conferences
- Assessments for potential foster carers and adopters
- Foster carer registration
- Section 7 and 37 court reports.

The Council may decide to investigate these areas under other procedures, such as the Council's Corporate Complaints Procedure or use the Children Act 1989 Statutory Complaints Procedure if complaint issues fall across both corporate and statutory procedures. This decision is at the discretion of the Complaints Manager.

6. Complaints that cross with other procedures - Child Protection Conference Complaints/legal/historic abuse

The Complaints Manager also may use discretion to decide that a complaint or certain parts of a complaint cannot be investigated through the Children Act 1989 Statutory Complaints Procedure if the same matters are being investigated through another process. Examples are:

- **Child Protection Conference complaints** – these follow the Kingston and Richmond Safeguarding Children Partnership 'Complaints procedure for parents and carers in relation to Child Protection Conference & Risks Outside the Home Reviews'.

- **Allegations of historic sexual abuse** – these follow Achieving for Children’s ‘Non-recent Abuse Allegations Protocol’.
- **LADO investigations** – these are investigations by the Local Authority Designated Officer into allegations against people working with children. Complaints about how this process has been carried out can be investigated through the Council’s Corporate Complaints Procedure but the outcome of any investigation can only be challenged via Judicial Review
- **Allegations against Foster Carers** – allegations against foster carers might be investigated in line with the Local Safeguarding Children Partnership and Child Protection Procedures. These investigations are overseen by the Designated Officer (also called the LADO).
- **Legal/insurance claims** – If some issues are being investigated through a legal process, the Complaints Manager may decide that a complaint, or certain parts of the complaint, cannot be taken forward through the Children Act 1989 Statutory Complaints Procedure. This may also apply to complaints about Court ordered reports (Section 7 and Section 37 reports) as the reports are evidence for Court and should be challenged through the Court process.
- **Section 7/Section 37 court reports** – these are reports requested by the Court as part of care proceedings for the Local Authority and Cafcass¹ to consider a child’s welfare and best interests. The appropriate place to challenge Court ordered reports is through the Court process.

7. Corporate Complaints

As set out in Section 5, some complaints for Children’s Services are not covered by the Children Act 1989 Complaint procedure so there may be occasions where the Corporate Complaints Procedure will be used. Examples are:

- Parts of the Children Act 1989 that are not covered by the Statutory Complaints Procedure
- Complaints about how the Local Authority Designated Officer has carried out their investigations into allegations against adults working with children
- Complaints about Education services including Special Education Needs & Disabilities (SEND)
- Complaints from parents/guardians about their own interests in the absence of any impact to a child’s social care services.

¹ Children and Family Court Advisory and Support Services

The Complaints Manager will decide when the Corporate Complaints Procedure should be used. Further information can be found on our webpages.

https://www.richmond.gov.uk/council/have_your_say/complaints/ways_to_make_a_complaint

The Corporate Complaints Procedure does not cover complaints about schools. Schools have their own complaints procedure and complaints should be made directly to school. The Complaints Team can provide further support and advice.

8. Exclusions from the Children Act 1989 Statutory Complaints procedure

The Complaints Manager will always advise on the correct procedure to consider any matters brought to their attention; however, the following matters will not be considered through the Children Act 1989 Statutory Complaints Procedure:

- A complaint that can be put right no later than the next working day after the complaint was made. This is a low-level complaint.
- When the issue is something other than Parts of the Children Act 1989 that are not covered by the Children's Act 1989 Statutory Complaints Procedure and the Corporate Complaints Procedure would be more appropriate.
- The same complaint that has previously been investigated through these procedures or has been investigated by the Local Government and Social Care Ombudsman.
- A complaint made by a staff member about their employment – these are dealt with through Human Resource (HR) procedures.
- Any complaints that are made by people or organisations working with the Council in their professional capacity, for example, another local authority or an external provider or contractor. The complaints process is for complaints made by members of the public.
- Complaints about lawful decisions taken by a Committee of the Council.
- An issue that would fall under Information Governance procedures; Subject Access requests, Freedom of Information or Right to Rectification. This includes complaints about a failure to comply with a request for information under Freedom of Information Act (2000).
- A complaint that has been investigated by a local commission, other legal process or judicial review.
- A complaint relating to a Court decision/ruling or a criminal investigation.
- Where there are separate appeals processes.
- If consent is not provided by the young person who is the subject of the complaint if they are considered competent to make this decision.

- Complaints about issues relating to protected characteristics under the Equality Acts 2010.

9. How to make a statutory complaint

Please do not be afraid to make a complaint, it will not count against you in any way. There are different ways that you can make a complaint.

You might be able to resolve the issue quickly by discussing it with the member of staff dealing with it or their manager. If you do not know their name or have their contact details the complaints team can help.

You can also complain directly to the Complaints Team. You can do this by: Completing an online complaints form on the website at: https://www.richmond.gov.uk/council/have_your_say/complaints/ways_to_make_a_complaint

Writing to the Complaints Team at:

Statutory Complaints Manager
Civic Centre, York House, Richmond Road, Twickenham, TW1 3AA
Email: childrenscomplaints@richmondandwandsworth.gov.uk
Phone: 020 8871 7648

10. The statutory complaints process

Stage 1

If you are not satisfied with a service or do not agree with a decision, tell the member of staff you are most often in touch with. If you are not able to sort things out with this person, your complaint should be passed to their manager.

You can do this by talking to the manager in person, on the phone or in writing. Or you can contact the Complaints Team directly. You might also want to seek the support of your local Councillor, a friend, relative or neighbour.

You can expect a reply to your complaint within 10 working days. In some more complex cases this may be extended to 20 working days. If the manager cannot respond to your complaint within this timescale, you will be kept informed of progress by letter or by telephone. If you are unhappy about the progress of your complaint at Stage 1, you have the right to ask for your complaint to be dealt with under the Stage 2 process.

Stage 2

If you remain unhappy following receipt of the response at Stage 1, you can take your complaint further by writing to the Complaints Team with your reasons within 20 working days of receiving your response.

You will need to ask for your complaint to be dealt with at Stage 2. There may also be some instances where the Complaints Manager assesses that a complaint should move straight to stage 2 because local resolution at stage 1 is unlikely to resolve the complaint.

Your complaint may be investigated by a senior officer independent of the line management of the service that your complaint is about. In respect of complaints concerning children and young people, an independent person will always be appointed to work with the investigating officer to try to resolve your complaint. The independent person's role is to ensure the any investigation is fair and impartial. If the complainant is a young person, the Council will also work with the young person to provide advocacy to help them deal with their complaint.

The timescale for dealing with a Stage 2 complaint is between 25 and 65 working days from receipt of your complaint. The Council hopes to resolve your complaint as quickly as possible. The Complaints Team will ensure that all aspects of the complaint are investigated and will keep you updated on the progress of the investigation.

Stage 3

If you are not satisfied with the reply you receive in Stage 2, you have the right to appeal. You must write to the Complaints Team asking them to arrange a review of your complaint. You must request this in writing within 20 working days of the date shown on the letter of reply to your complaint at Stage 2.

A panel will review your complaint. The panel will be made up of people who are totally independent of the Council. You can come and present your case and bring a friend or representative to support you.

The panel will make recommendations to the Director within five days of the panel meeting. After considering the recommendations of the panel, the Director will write to you within 15 working days with the final decision of the Council.

Your complaint is concluded at the end of this stage. If you remain dissatisfied, you may contact the Local Government and Social Care Ombudsman for assistance.

11. Advocacy, support and Reasonable Adjustments

Advocacy

If you are a child or young person, an advocate can support you and will help you explain what you want. They help to ensure your views are heard, so that your

problems can be sorted out. They can support you in any meetings and discuss with your decisions that the council makes about your complaint.

The Advocacy People
0300 440 9000, info@theadvocacypeople.org.uk
Text 80800 starting the message with PEOPLE

Other help

Childline

NATN111 London
E1 6BR FREEPOST
0800 111 Freephone
Email: anon@childline.org.uk

NSPCC

Childline Protection Helpline
0808 800 5000 FEEPHONE
Email: help@nspcc.org.uk

Samaritans

Emotional support and advice 24 hours a day
Telephone: 116 123 FREEPHONE
Email: jo@samaritans.org

You can also get in touch with your local Councillor or Member of Parliament, who will contact us on your behalf. You can do this in person, by phone, by letter or by email. You can find their contact details on our website at www.richmond.gov.uk/your councillors.

Reasonable Adjustments

We want to make it easy for anyone who wants to complain to do so and in line with the Equalities Act 2010 will consider reasonable adjustments for residents who may need access to the complaints process. For example, if you need an interpreter or sign language interpreter, need information translated into another language, in Braille, on audio tape or in electronic format, or are neurodivergent and require information to be more accessible to suit your needs, please tell us when you first make your complaint, so we can make appropriate arrangements for you. The Council will always do its best to meet the needs of customers.

12. Local Government and Social Care Ombudsman (LGSCO)

We will send you a full and final response at the end of our investigations into your complaint. If at any stage you are still dissatisfied, you can contact the Local Government and Social Care Ombudsman. The Ombudsman will consider any complaint you have made and give you their views.

The Ombudsman will usually ask if you have used the council's complaints procedure first and will only investigate complaints that are about maladministration - that is, inefficient or unfair administration.

You can write to the Ombudsman at:

The Local Government and Social Care Ombudsman
PO Box 4771, Coventry
CV4 0EH

Phone 0300 061 0614

Online form: www.lgo.org.uk/how-to-complain, Website: www.lgo.org.uk

13. Anonymous Complaints

We value all information and feedback about Children's Social Care, and we will deal with anonymous complaints on an individual basis and decide whether further action is required.

We will act depending upon the issues brought to our attention and the amount of information provided but we are not able to respond to anonymous complaints. For example, if an anonymous complaint is made by phone, we will not ask for contact details but we will still make sure the concerns are taken seriously and looked into.

14. Data Protection and Freedom of Information

We have separate processes for dealing with matters that relate to the Data Protection Act 2018 (DPA) and Freedom of Information Act 2000.

The Council has its own Data Protection Policy which can be found on this link.

https://www.richmond.gov.uk/media/t3qjw1lo/data_protection_policy.pdf

It is important to follow this policy as it helps us to maintain the trust of residents and service users in dealing with their data. It reduces the risk of any information security breach taking place, and the distress this may cause if it happens.

Achieving for Children also have their own Privacy Notice for Information Governance as follows:

<https://www.achievingforchildren.org.uk/pages/privacy-and-data-protection/privacy-notice-list/privacy-notice-for-information-governance>

Achieving for Children are responsible for Information Governance in relation to Richmond Children's Services and requests relating to individual information rights (Subject Access Requests, Freedom of Information and Right to Rectification and Data Breaches) should be directed to the email addresses below:

Foi.sar@achievingforchildren.org.uk

DPO@achievingforchildren.org.uk

15. Learning from complaints and quality assurance

Learning from the experience of people using services can identify where services, policies and procedures can be improved, keep senior management informed of issues that are important to people, improve communication and strengthen relationships.

Achieving for Children is a learning organisation and recognises that complaints are valuable as they provide an opportunity to improve services for the individual and improve practice to prevent the same mistakes from happening. Outcomes, particularly from stage 2 and 3 statutory complaints are shared at the Achieving for Children's Performance, Quality and Innovation Board. This is a forum where practitioners and managers across social care, education and SEND services can reflect on the learning from complaints to improve their own practice and their team's performance.

Learning from complaints is also included in the annual statutory complaints report.

16. Recording and monitoring

The Complaints Team keep an electronic case management system and logging sheet of all complaints and associated information such as:

- Details of the child/young person (if a different person is making the complaint)
- Complaint details (who, what and which service being complained about)
- Documentation and correspondence related to the complaint

A copy of the complaint response is also put on the electronic social care records system (Liquid Logic). This is at the discretion of the investigating manager as some complaints contain confidential information.

Complaint files relate to personal information and can be sought as part of a Subject Access Request under the Data Protection Act 1998.

The Complaints Manager will monitor complaints on an ongoing basis to ensure that records are kept for each complaint received including the type of complaint, outcome and whether the timescale was met.

An annual complaints report will be presented to senior managers and Councillors through the relevant committee and will be published on the council's website.

The Complaints Manager will also provide quarterly complaints performance reports to senior managers and a bi-weekly complaints tracker report.

17. Unreasonable Complainant Behaviour

The Council is committed to dealing with all customers fairly and impartially and to delivering high quality services. This includes to those who wish to complain, offer comments, or provide us with feedback.

Normally, people who wish to complain are allowed full access to the Council and all relevant services. However, there are a small number of complainants who, because of their behaviour and the way they approach Officers in the Council in relation to their complaint, may need to have their contact restricted. They may behave unacceptably or be unreasonably persistent in their contact. This can obstruct investigating their complaint(s) and can have significant resource implications. These actions can occur either while the complaint is being investigated, or once the Council has finished the complaint investigation.

The Council has an Unreasonable Complainant Behaviour Policy which can be found on our complaints webpage

https://richmond.gov.uk/council/have_your_say/complaints/corporate_complaints_process