

**NATIONAL ASSEMBLY FOR WALES**

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**S T A T U T O R Y   I N S T R U M E N T S**

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**2005 No. (W. )**

**SOCIAL CARE, WALES**

**CHILDREN AND YOUNG  
PERSONS, WALES**

**The Social Services Complaints  
Procedure (Wales) Regulations  
2005**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision for complaints to local authorities about the exercise of their social services functions, with the exception of functions capable of being considered as representations under sections 24D and 26 and schedule 7, paragraph 6 of the Children Act 1989. They replace the Complaints Procedure Directions 1990. Provision is also made for representations made under the Representations Procedure (Children) (Wales) 2005 to be further considered under these Regulations.

Regulations 3 and 4 require the local authority to establish a complaints procedure and set out the principles to be followed in operating it. Under regulation 5 the local authority must designate a senior officer with responsibilities in relation to complaints and regulation 6 requires the local authority to appoint a complaints officer.

Regulation 7 sets out requirements in relation to publicity of the complaints procedure and regulation 8 sets out requirements for the training of staff.

Part III sets out who may complain (regulation 9) and about what matters (regulations 10 and 11). Regulation 12 establishes a procedure for consideration of how complaints shall be dealt with where there is a concurrent consideration by another

person or body. This allows for the local authority to suspend consideration temporarily where to continue would compromise or prejudice the other consideration.

Part IV establishes procedures for working with other local authorities (regulation 13) or persons registered under the Care Standards Act or the National Assembly (regulation 14).

Regulation 18 requires the local authority to attempt local resolution of a complaint and regulation 19 establishes the procedure for formal consideration of the complaint where local resolution has not been achieved.

Regulation 20 sets out requirements in relation to the response to be sent by the local authority including as to the complainant's right to request an independent panel hearing in accordance with Part VI of the Regulations.

Part VI sets out the arrangements for independent consideration of both complaints made under these Regulations and representations made under the Representations Procedure (Children) (Wales) Regulations 2005.

Part VII sets out how local authorities are to monitor and report on the arrangements they have made with a view to ensuring that they comply with the Regulations.

**2005 No. (W.)**

**SOCIAL CARE, WALES**

**CHILDREN AND YOUNG  
PERSONS, WALES**

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The Social Services Complaints  
Procedure (Wales) Regulations  
2005

*Made* 2005

*Coming into force* 1 April 2006

**ARRANGEMENT OF REGULATIONS**

**PART I**

**GENERAL**

1. Title, commencement and application.
2. Interpretation
3. General principles in handling complaints

**PART II**

**SETTING UP THE COMPLAINTS  
PROCEDURE**

4. Duty to establish a complaints procedure
5. Senior officer responsible for complaints
6. Complaints officer
7. Publicity
8. Information and training for staff

**PART III**  
**NATURE AND SCOPE OF THE**  
**COMPLAINTS PROCEDURE**

- 9.** Persons who may make complaints
- 10.** Matters about which complaints may be made
- 11.** Matters excluded from consideration
- 12.** Complaints subject to concurrent consideration

**PART IV**  
**WORKING WITH OTHER AGENCIES**

- 13.** Complaints involving more than one body
- 14.** Handling of care standards complaints

**PART V**  
**HANDLING AND CONSIDERATION OF**  
**COMPLAINTS BY LOCAL AUTHORITIES**

- 15.** Making a complaint
- 16.** Advice about the availability of advocacy services
- 17.** Withdrawal of complaints
- 18.** Local resolution
- 19.** Formal consideration
- 20.** Response

**PART VI**  
**THE INDEPENDENT PANEL HEARING**

- 21.** The Independent Panel
- 22.** Request for an independent panel hearing
- 23.** Duty on local authorities to co-operate with the Assembly
- 24.** Initial handling of request
- 25.** Procedure of the panel hearing
- 26.** Report of the panel
- 27.** Response of the local authority
- 28.** Complaint to the Ombudsman.

## PART VII

### LEARNING FROM COMPLAINTS

**29.** Monitoring the operation of the complaints procedure

**30.** Annual Report

## PART VIII

### TRANSITIONAL PROVISION

**31.** Transitional Provision

The National Assembly for Wales, in exercise of the powers conferred by sections 114(3), (4) and (5) and 115(1), (2), (4), (5) and (6) of the Health and Social Care (Community Health and Standards) Act 2003<sup>(1)</sup> and sections 26A and 26ZB of the Children Act 1989<sup>(2)</sup> hereby makes the following Regulations:-

## PART I

### GENERAL

#### **Title, commencement and application**

**1.**—(1) The title of these Regulations is the Social Services Complaints Procedure (Wales) Regulations 2005 and they come into force on 1 April 2006.

(2) These Regulations apply in relation to Wales.

#### **Interpretation**

**2.** In these Regulations —

“the Act” (“*y Ddeddf*”) means the Health and Social Care (Community Health and Standards) Act 2003<sup>(3)</sup>;

“appropriate office” (“*swyddfa briodol*”) means in relation to an establishment or agency —

(a) if an office has been specified under regulation 14(3) for the area in which the establishment or agency is situated, that office;

(b) in any other case, any other office of the National Assembly.

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<sup>(1)</sup> 2003 c.43.

<sup>(2)</sup> 1989 c.41. Section 26ZB of the Children Act 1989 was inserted by section 116 of the Act. The functions of the Secretary of State under the Children Act 1989 were transferred to the Assembly by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

<sup>(3)</sup> 2003 c.43.

“child” (*“plentyn”*) means a person under the age of 18;

“complaints officer” (*“swyddog cwynion”*) means the person appointed under regulation 6;

“complaints procedure” (*“gweithdrefn gwynion”*) means the arrangements made under regulation 4;

“disciplinary proceedings” (*“achos disgyblu”*) means any procedure for disciplining employees adopted by a local authority;

“former complaints procedure” (*“gweithdrefn gwynion flaenorol”*) means the complaints procedure under section 7B of the Local Authority Social Services Act 1970<sup>(4)</sup>;

“local authority” (*“awdurdod lleol”*) means a county council or county borough council;

“National Assembly” (*“Cynulliad Cenedlaethol”*) means the National Assembly for Wales;

“partnership agreement” (*“cytundeb partneriaeth”*) means an agreement between a local authority and an NHS body made under the provisions of section 31 of the Health Act 1999<sup>(5)</sup> and the National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000<sup>(6)</sup>;

“service user” (*“defynddiwr y gwasanaeth”*) means any person who may make a complaint under regulation 9(1);

“social services functions” (*“swddogaethau gwasanaethau cymdeithasol”*) means the list of functions set out in Schedule 1 to the Local Authority Social Services Act 1970;

“staff” (*“staff”*) means any person who is employed by or engaged to provide services to a local authority; and

“working day” (*“diwrnod gwaith”*) means a day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971<sup>(7)</sup>.

### **General principles in handling complaints**

**3.—**(1) Any complaints procedure set up under these regulations must be operated in accordance with the principle that the welfare of the service user should be safeguarded and promoted.

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<sup>(4)</sup> 1970 c.42. Section 7B was inserted by section 50 of the National Health Services and Community Care Act 1990 and amended by section 67(1) and Schedule 5 Part 2 paragraphs 15(1) and (2) of the Health and Social Care Act 2001.

<sup>(5)</sup> 1999 c.52.

<sup>(6)</sup> S.I. 2000/2993 (W.193) as amended by S.I. 2004/1390.

<sup>(7)</sup> 1971 c.80

(2) Account should be taken of the ascertainable wishes and feelings of the service user.

## PART II

### SETTING UP THE COMPLAINTS PROCEDURE

#### **Duty to establish a complaints procedure**

4. Each local authority must make arrangements in accordance with these regulations for the handling and consideration of complaints and the arrangements must be in writing.

#### **Senior Officer responsible for complaints**

5. Each local authority must designate a senior officer to be responsible for seeking to ensure compliance with the arrangements made by the local authority under these Regulations.

#### **Complaints officer**

6.—(1) Each local authority must appoint a person, in these Regulations referred to as a complaints officer, to manage the procedures for handling and considering complaints and in particular —

- (a) to perform the functions of the complaints officer under these Regulations;
- (b) to perform such other functions in relation to complaints as the local authority may require; and
- (c) to co-operate with such other persons or bodies as may be necessary in order to investigate or resolve complaints.

(2) The functions of the complaints officer may be performed by any person authorised by the local authority to act on behalf of the complaints officer.

(3) A complaints officer may be —

- (a) a person who is not an employee of the local authority; and
- (b) appointed as complaints officer for more than one body.

#### **Publicity**

7.—(1) Each local authority must ensure that there is effective publicity of its complaints arrangements.

(2) Each local authority must take all reasonable steps to ensure that service users and their carers, if any, are informed of its arrangements, the name of its complaints officer and the address at which the complaints officer can be contacted.

(3) A copy of the arrangements made under regulation 3 must be given, free of charge, to any person who makes a request for one.

(4) Each local authority must take all reasonable steps to provide a copy of its arrangements in any form requested by the service user or other person making a complaint on the service user's behalf.

#### **Information and training for staff**

8. Each local authority must ensure that their staff are informed about and appropriately trained in the operation of the complaints procedure.

### **PART III**

#### **NATURE AND SCOPE OF THE COMPLAINTS PROCEDURE**

##### **Persons who may make complaints**

9.—(1) A complaint may be made by any person to whom the local authority has a power or duty to provide, or secure the provision of, a service which, if provided, would be provided as a social service function and whose need, or possible need for such a service has (by whatever means) come to the attention of the local authority.

(2) A complaint may be made by a person (a "representative") acting on behalf of a person mentioned in paragraph (1) in any case where that person —

- (a) is a child; or
- (b) has requested the representative to act on his or her behalf; or
- (c) is not capable of making the complaint personally.

(3) A complaint may be made by a person (a "representative") in respect of a person who has died.

(4) Any representative making a complaint under paragraph (2)(a) or (c) or under paragraph (3) must, in the opinion of the local authority have, or have had, an interest in the person's welfare and be a suitable person to act as representative.

(5) If in any case the local authority is of the opinion that any person making a complaint under paragraphs (2)(a) or (c) or (3) does not have sufficient interest in the person's welfare or is not a suitable person to act as a representative, the authority must notify the person in writing immediately, stating the reasons for that opinion.

(6) Where notification is given under paragraph (5) and the person referred to in paragraph (1) in respect

of whom the complaint has been made is alive the local authority must, if it considers it appropriate to do so having regard to the understanding of the person referred to in paragraph (1), provide that person with a copy of the notification.

(7) In these Regulations any reference to a complainant includes a reference to his or her representative.

#### **Matters about which complaints may be made**

**10.**—(1) Subject to paragraph (2) a complaint to a local authority may be about the exercise of its social services functions including —

- (a) the discharge by a local authority of any of its social services functions;
- (b) the provision of services by another person pursuant to arrangements made by such an authority in the discharge of those functions;
- (c) the provision of services by such an authority or any other person in pursuance of arrangements made by the authority under section 31 of the Health Act 1999<sup>(8)</sup> in relation to the functions of an NHS body (within the meaning of that section).

(2) A complaint may not be made under these regulations about the exercise of functions under sections 31, 33, 34, 35, 43, 44 and 47 of the Children Act 1989.

#### **Matters excluded from consideration**

**11.** These Regulations do not require arrangements to be made for the investigation of any complaint which has been investigated —

- (a) under these Regulations,
- (b) under any former complaints provisions, or
- (c) by a Commissioner for Local Administration.

#### **Complaints subject to concurrent consideration**

**12.**—(1) Where a complaint relates to any matter —

- (a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or
- (b) about which the local authority are taking or are proposing to take disciplinary proceedings, or
- (c) about which the local authority have been notified that an investigation is being

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<sup>(8)</sup> 1999 c.8.

conducted by any person or body in contemplation of criminal proceedings, or

- (d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or
- (e) about which the local authority have been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000,

the local authority must consider, in consultation with the complainant and any other person or body which the authority consider appropriate to consult, how the complaint should be handled. Such a complaint shall be referred to for the purposes of this regulation as a “complaint subject to concurrent consideration”.

(2) The consideration of a complaint subject to concurrent consideration under this Part of the Regulations may be discontinued if at any time it appears to the local authority that to continue would compromise or prejudice the other consideration.

(3) Where the local authority decide to discontinue the consideration of a complaint under paragraph (2) the authority must give notice of that decision to the complainant.

(4) Where the local authority discontinue the consideration of any complaint under paragraph (2), they may at any time resume their consideration.

(5) Where consideration of a complaint has been discontinued under paragraph (2) the local authority must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The local authority must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.

## PART IV

### WORKING WITH OTHER AGENCIES

#### **Complaints involving more than one body**

**13.—**(1) In any case where it appears to the complaints officer that a complaint is or may be a complaint which relates to the exercise of functions by more than one local authority (a complaint involving more than one body) the complaints officer must, as soon as reasonably practicable —

- (a) notify the other body or bodies involved and consider with the complaints officer of each

of them which body should take the lead in handling the complaint; and

(b) notify the complainant of their decision.

(2) The complaints officer of a local authority which is the lead body must —

(a) ensure that any part of the complaint relating to the actions of the local authority is considered under this part of the Regulations;

(b) ensure that the complainant is kept informed about the progress of the investigation;

(c) ensure that the response required under regulation 20 so far as practicable includes a response on any matter which was within the responsibility or control of any other body mentioned in paragraph (1).

(3) The complaints officer of a local authority which is not the lead body must —

(a) ensure that any part of the complaint relating to the actions of the local authority is considered under these Regulations; and

(b) advise the complaints officer of the lead body of any resolution of the complaint under regulation 18, or the outcome of any investigation under regulation 19.

### **Handling of care standards complaints**

**14.**—(1) Except where paragraph (2) applies, in any case where a complaint relates wholly or partly to services provided by an establishment or agency in respect of which a person is registered by the National Assembly under the Care Standards Act 2000<sup>(9)</sup>, the local authority receiving such a complaint must, within 2 working days of receipt —

(a) send details of the whole complaint or that part of the complaint which relates to the registered service to the person registered to provide that service;

(b) request the person to whom details are sent under sub-paragraph (a) to notify the authority within 10 working days of the outcome of their consideration of the complaint; and

(c) inform the complainant of the action that has been taken under sub-paragraphs (a) and (b).

(2) This paragraph applies where -

(a) a complaint has already been considered by the registered person; or

(b) the local authority are of the opinion that to proceed under paragraph (1) would be likely to compromise or prejudice the investigation

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<sup>(9)</sup> 2000 c.14.

of the complaint under Part V of the Regulations or might compromise or prejudice an investigation by the National Assembly.

(3) In any case where a complaint relates wholly or partly to services provided by an establishment or agency in respect of which a person is registered by the National Assembly, the local authority must notify the appropriate office of the National Assembly if it has not been possible to resolve the complaint under regulation 18.

## PART V

### HANDLING AND CONSIDERATION OF COMPLAINTS BY LOCAL AUTHORITIES

#### **Making a complaint**

**15.**—(1) Where a person wishes to make a complaint under these Regulations, he or she may make the complaint to any member of the staff of the local authority employed or engaged in relation to the social service functions of the authority.

(2) A complaint under paragraph (1) may be made orally or in writing (including electronically).

#### **Advice about the availability of advocacy services**

**16.** The local authority must inform the complainant of the availability of any advocacy services which the complaints officer believes may be of assistance to the complainant.

#### **Withdrawal of complaints**

**17.**—(1) A complaint may be withdrawn orally or in writing at any time by the complainant.

(2) The local authority must as soon as possible write to the complainant to confirm the oral withdrawal of a complaint.

#### **Local resolution**

**18.**—(1) The local authority must take all reasonable steps to resolve the complaint as soon as is reasonably practicable and subject to paragraph (2), within 10 working days beginning on the date the complaint was made.

(2) The period referred to in paragraph (1) may be extended upon request by the complainant or with the complainant's agreement by up to a further 10 working days.

(3) For the purposes of paragraph (1), the local authority may in any case where it would be

appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(4) Where the complaint is resolved under paragraph (1), the local authority must confirm in writing to the complainant the agreed resolution.

(5) Where the complaint has not been resolved within 20 working days, the local authority must, as soon as practicable, notify the complainant in writing of:

- (a) the complainant's right to request that the complaint be formally considered;
- (b) the procedure for requesting such further consideration; and
- (c) the date by which such a request must be made having regard to the provisions of paragraph (6).

(6) The complainant may request orally or in writing that the complaint be formally considered under regulation 19 at any time within 30 working days of the date on which the complaint was first made.

#### **Formal consideration**

**19.**—(1) Where the complainant has requested formal consideration of the complaint, subject to regulations 12, 13 and 14 the local authority must investigate the complaint to the extent necessary and in the manner which appears to the authority most appropriate to resolve it speedily and efficiently.

(2) The local authority must compile a formal written record of the complaint as soon as is reasonably practicable, and send it to the complainant with an invitation to the complainant to comment on its accuracy.

(3) The local authority must consider any comments made by the complainant under paragraph (2) and in the light of those comments make any amendments to the record which are necessary to ensure it is, in the opinion of the authority, an accurate record of the complaint.

(4) Except where arrangements have been made under regulation 18(2) the local authority may in any case where it would be appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the complaint.

(5) The local authority must —

- (a) explain to the complainant how the complaint will be investigated; and

- (b) send a copy of the complaint to any person who is the subject of the complaint unless —
  - (i) this has already been done; or
  - (ii) notification at that time would prejudice the consideration of the complaint.
- (6) The local authority may —
  - (a) invite the complainant and any other person whom the authority considers may be able to assist with the resolution of the complaint to be interviewed; and
  - (b) take such advice as appears to the complaints officer to be required.
- (7) Where any person is interviewed in accordance with paragraph 6(a) the local authority must —
  - (a) send a copy of the draft record of the interview to the person interviewed;
  - (b) invite that person to comment on the accuracy of the draft record;
  - (c) consider any comments made by the person; and
  - (d) in the light of those comments make any amendments to the record which, in the opinion of the authority, are necessary to ensure that the record is accurate.
- (8) The local authority must take all reasonable steps to keep the complainant informed about the progress of its formal consideration of the complaint.

## **Response**

- 20.—**(1) The local authority must prepare a written response to the complaint which —
- (a) summarises the nature and substance of the complaint;
  - (b) describes the investigation under regulation 19 and summarises the conclusions;
  - (c) explains what action will be taken to resolve the complaint;
  - (d) where appropriate, contains an apology to the complainant; and
  - (e) identifies what other action, if any, will be taken in the light of the complaint.
- (2) Subject to paragraph (3), the response must be sent to the complainant within 25 working days beginning on the date on which the local authority received the request from the complainant for formal consideration.
- (3) If, in the case of —
- (a) any complaint where there has been difficulty in the determination of its nature or substance;
  - (b) a complaint involving more than one body;

- (c) a complaint which has been treated as subject to concurrent consideration under regulation 12; or
- (d) any other complaint where the complainant has agreed to a later response,

it is not possible for the response to be sent within 25 working days the local authority must notify the complainant of the reason for the delay, the date by which it expects to send the response and must send that response as soon as reasonably practicable.

- (4) The response must include information about —
  - (a) the complainant's right to request an independent panel hearing in accordance with regulation 22;
  - (b) the procedure for requesting such a hearing; and
  - (c) the time within which such a request must be made.

(5) Copies of the response prepared in accordance with paragraph (1) must be sent —

- (a) to any person who was the subject of the complaint;
- (b) where the complaint involves more than one body to the complaints or officer of each body;
- (c) where the complaint relates to a service described in regulation 10(1)(c) to the NHS body with whom the arrangement was made;
- (d) where the complaint is a care standards complaint mentioned in regulation 14, to the person registered under the Care Standards Act 2000 as the provider in respect of the establishment or agency.

## PART VI

### THE INDEPENDENT PANEL HEARING

#### **The Independent Panel**

**21.—**(1) The Assembly must take such steps as it considers reasonable, including as to administrative and financial arrangements, to establish a panel to further consider complaints under this Part.

(2) In particular the Assembly must prepare and keep up to date two lists of persons who in its opinion are suitable to further consider complaints under this Part.

(3) The persons appointed to one of the lists established under paragraph (2) must have experience in the provision of services which must or may be provided by local authorities under the Local Authority

Social Services Act 1970<sup>(10)</sup> or which are similar to such services (“the list of persons with social services experience”). The persons appointed to the other list (“the list of lay persons”) should not have such experience.

(4) A person is not to be regarded as suitable for appointment under paragraph (2) if he or she is employed by, or an elected member of, a local authority in Wales.

### **Request for an independent panel hearing**

**22.**—(1) A complainant may request that a complaint is further considered by an independent panel in accordance with this Part in any case where —

- (a) a local authority has decided that it will not consider a complaint under regulation 9(5);
- (b) for any reason formal consideration under regulation 19 has not been completed within 3 months of the date on which the complaint was made;
- (c) the complainant is dissatisfied with the result of formal consideration by the local authority under regulation 19;
- (d) for any reason formal consideration under the Representations Procedure (Children) (Wales) Regulations 2005<sup>(11)</sup> has not been completed within 3 months of the date on which the representation was made; or
- (e) the complainant is dissatisfied with the local authority’s formal consideration of representations made under the Representations Procedure (Children) (Wales) Regulations 2005.

(2) Subject to paragraph (3) a request under paragraph (1) must be made to the Assembly within 20 working days of the day on which the written response to the complaint was sent to the complainant under regulation 20(2) or notification sent under regulation 9(5) or the written response sent to the complainant under regulation 18(2) of the Representations Procedure (Children)(Wales) Regulations 2005.

(3) Where a request is made under paragraph (1)(b) or (d) it must be made within 20 working days of the complainant becoming aware that the local authority has not sent a written response to the complaint or representation within 3 months of the date on which it was made.

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<sup>(10)</sup> 1970 c.42.  
<sup>(11)</sup> S.I. 2005/

(4) Where a complainant notifies the local authority complained against that he or she requests further consideration of the complaint by an independent panel under paragraph (1) the local authority shall, as soon as practicable, inform the Assembly of the request and the request shall be treated as having been made to the Assembly on the date that it was received by the local authority.

### **Duty on local authorities to co-operate with the Assembly**

**23.**—(1) Where a request for an independent panel hearing is made under regulation 22(1) the local authority which is the subject of the complaint must provide such assistance as may reasonably be required to enable the Assembly to discharge its functions under this Part.

(2) The assistance that may be required under paragraph (1) includes the production of information or documents relevant to a complaint notwithstanding any rule of common law that would otherwise prohibit or restrict such production.

### **Initial handling of request**

**24.**—(1) When the Assembly receives a request for a panel hearing it must —

- (a) acknowledge receipt of the request in writing within 2 working days;
- (b) ask the complainant to provide within 20 working days if one has not already been provided, a written statement setting out the basis of the complaint and why the complainant is dissatisfied with the local authority's response;
- (c) inform, in writing, the local authority complained against and send it a copy of the complainant's letter requesting a panel hearing and, when available, a copy of the complainant's statement requested under subparagraph (b);
- (d) request from the local authority the complaints file and any information and documents relevant to the complaint.

(2) The Assembly must convene a panel to further consider the complaint within 20 working days of receipt of the complainant's written statement of the complaint.

(3) The panel must consist of 3 members, one drawn from the list of persons with social services experience and two drawn from the list of lay persons.

(4) One of the panel members drawn from the list of lay persons must be appointed by the Assembly to chair the panel.

### **Procedure of the panel hearing**

**25.**—(1) In further considering the complaint the panel may adopt such procedures as it determines are most appropriate for dealing with the complaint.

(2) Before the panel determines to adopt a procedure for dealing with a complaint it must consult the complainant and any person who is the subject of the complaint.

(3) In the event of any disagreement as to the procedure that is to be adopted for dealing with the complaint the decision of the chair of the panel is final.

(4) The panel may make such enquiries and take such advice as it determines are appropriate.

(5) The panel must ensure that the complainant and any person who is the subject of the complaint are given the opportunity to present their case orally or, if they so wish, in writing.

(6) The panel or a member of the panel may interview any person who is not the complainant or a subject of the complaint if the panel considers that they may be able to provide information relevant to the complaint.

(7) At any interview or meeting with a panel member the complainant and any person who is the subject of the complaint may be accompanied by a relative or friend and by any person chosen by him or her to act as an adviser.

(8) A person accompanying a complainant or person who is the subject of a complaint may, with the consent of the chair of the panel, speak to the panel.

(9) Any meeting of the panel or of any member of the panel with another or with the complainant or any person who is the subject of the complaint shall be in private.

### **Report of the panel**

**26.**—(1) The chair of the panel must prepare a written report which —

- (a) summarises the findings of fact made by the panel relevant to the complaint;
- (b) summarises the conclusions of the panel;
- (c) recommends what action, if any, should be taken to resolve the complaint;
- (d) recommends what other action, if any, should be taken as a result of the complaint; and
- (e) sets out the reasons for the findings, conclusions and recommendations of the panel.

(2) The report may include suggestions which the panel consider would improve the services of the local

authority or which would otherwise be effective for the purpose of resolving the complaint.

(3) The report must be delivered to the Assembly within 5 working days of the conclusion of the panel hearing.

(4) Subject to paragraph (5) the Assembly must send copies of the report of the panel to —

- (a) the complainant;
- (b) any independent person appointed under regulation 17 of the Representations Procedure (Children) (Wales) Regulations 2005;
- (c) any person on whose behalf a complaint has been made by a representative;
- (d) the panel members; and
- (e) the Chief Executive and Director of Social Services for the authority which is complained against.

(5) The panel chair may withhold any part of the panel's report where, in his or her opinion, this is necessary in the interests of protecting the confidentiality of any third party.

(6) If the panel chair is unable to make the report available to the Assembly within the time set out in paragraph (3) the Assembly must write to the persons who are entitled to a copy of the report explaining the reason for the delay and when the report will be available.

### **Response of the local authority**

27. The local authority must, within 15 working days of receipt of the report of the panel —

- (a) decide what action the authority will take in the light of the recommendations of the panel; and
- (b) notify that decision to the complainant and any person on whose behalf a complaint has been made by a representative.

### **Complaint to the Ombudsman**

28. The notice sent under regulation 27(b) must explain the complainant's right to complain to the Public Services Ombudsman for Wales (*Ombwdsmon Gwasanaethau Cyhoeddus Cymru*).

## PART VII

### LEARNING FROM COMPLAINTS

#### **Monitoring the operation of the complaints procedure**

**29.** Each local authority must monitor the arrangements that they have made with a view to ensuring that they comply with the Regulations by keeping a record of each complaint received, the outcome of each complaint, and whether there was compliance within the time limits specified in regulations 18 and 20.

#### **Annual Report**

**30.—**(1) Each local authority must prepare an annual report on their performance in handling and consideration of complaints for the purposes of—

- (a) monitoring compliance with these Regulations, and
- (b) improving the handling and consideration of complaints.

(2) The first report referred to in paragraph (1) must be compiled within 12 months of the date of the coming into force of these Regulations.

## PART VIII

### TRANSITIONAL PROVISION

#### **Transitional Provision**

**31.—**(1) Subject to paragraph (2) where a complaint has been made in accordance with any former complaints procedure before 1 January 2006, it must be considered in accordance with that procedure.

(2) Where, in accordance with a former complaints procedure, a complainant—

- (a) has made a request to a local authority for review by a panel, or
- (b) would have been entitled to make such a request after 1 January 2006,

the local authority must treat any such request (if made) as a request for the complaint to be considered under Part VI of these Regulations.

Signed on behalf of the National Assembly for Wales  
under section 66(1) of the Government of Wales Act  
1998(12)

Date

The Presiding Officer of the National Assembly