

**Resolving Complaints and Improving Services  
Complaints and Representations Procedure**

**Children's Social Care Services  
Shropshire Council**

# **REPRESENTATIONS AND COMPLAINTS PROCEDURE**

## **INDEX**

### **SECTION 1**

#### **Scope of the Procedure**

	<b>Page No</b>
1.1 Defining representations and complaints	4
1.2 What may be complained about	4
1.3 What is exempt from the complaints procedure?	6
1.4 Who may complain?	6
1.5 Complaints made on behalf of a child	7
1.6 Complaints relating to a child	7
1.7 Relationship to other policies and processes	7
1.8 Children's Services Policy	8
1.9 Key Principles (including freezing decisions)	8
1.10 Definitions	9
1.11 Values	11

Reviewed: September 2020

## **SECTION 2**

### **Representations Procedure (including Complaints)**

	<b>Page No</b>
2.1      Introduction	12
2.2      Complaints Stage 1 – The Local Resolution Stage	13
2.3      Complaints Stage 2 – Investigation Stage	16
2.4      Complaints Stage 3 – The Review Panel – Procedures and Protocols	18
2.5      Evaluation and Monitoring	22
2.6      External Procedures	22
2.7      Complaints to the Ombudsman	22

## **SECTION 3**

### **Complaints Involving Other Agencies / Procedures or Requiring Variations of The Complaint Procedure**

	<b>Page No</b>
3.1      Procedure for complaints against Directorate Policy	24
3.2      Complaints involving Multi-Disciplinary Teams	24
3.3      Complaints concerning staff of the Directorate	24
3.4      Grievance and Disciplinary Procedures	24
3.5      Complaints concerning Allegations of Abuse by Children & Young People's Services Directorate 'staff' against children	25
3.6      Complaints concerning Child Protection Conferences	26
3.7      Complaints from Foster Carers	30
3.8      Complaints about Foster Carers / Prospective Adopters	30
3.9      Complaints from Prospective Adoptive Applicants	31
3.10     Representations or Complaints about a child or adult placed in the area of another authority by Shropshire Council	31
3.11     Compensation Claims	31
3.12     Complaints concerning staff from other agencies	32
3.13     Complaints about the eligibility for a service	32

# **SECTION 1 – SCOPE OF THE REPRESENTATIONS AND COMPLAINTS PROCEDURE**

## **1.1 Defining representations and complaints**

- 1.1.1 The Children Act 1989 defines the representations procedure as being for ‘representations (including complaints)’. The Children Act 1989 Representations Procedure (England) Regulations 2006 came into force on 1 September 2006: they are referred to in these procedures as the Regulations.
- 1.1.2 The intention of this procedure and guidance is to describe a statutory procedure for a child or young person who is likely to want to make representations, including complaints, about the actions, decisions or apparent failings of Shropshire Council’s Children’s Services and to allow any other appropriate person to act on behalf of the children or young people concerned or make complaints in their own right.
- 1.1.3 A complaint may be generally defined as an expression of dissatisfaction or disquiet in relation to an individual child or young person, which requires a response.
- 1.1.4 Representations may not always be complaints; they might also be positive remarks or ideas that require a response from the local authority. Enquiries or comments about the availability, delivery or nature of a service which are not criticisms are also welcomed and can help us to improve our services.

## **1.2 What may be complained about?**

- 1.2.1 Section 26(3) of the Children Act, 1989 provides that all functions of the local authority under Part 3 of the Act may form the subject of a complaint. For example, a complaint may arise as a result of many things relating to statutory social services functions such as:
  - an unwelcome or disputed decision;
  - concern about the quality or appropriateness of a service;
  - delay in decision making or provision of services;
  - delivery or non-delivery of services including complaints procedures;
  - quantity, frequency, change or cost of a service;
  - attitude or behaviour of staff;
  - application of eligibility and assessment criteria;
  - the impact on a child or young person of the application of a local authority policy; and
  - assessment, care management and review.
- 1.2.2 In addition, the Regulations provide that the following functions may be the subject of a complaint:

Part 4 of the Children Act, 1989,

- the decision by the local authority to initiate care and supervision orders (section 31);
- the effect of the care order and the local authority's actions and

- decisions where a care order is made (section 33);
- control of parental contact with children in care (section 34);
- how supervisors perform their duties where a supervision order is in force (section 35);

Part 5 of the Children Act, 1989,

- matters that do not relate to the Court and which are specifically actions of the local authority can be considered, regarding applications for and duties in relation to child assessment orders (section 43); and
- matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed (section 44).

- 1.2.3 In November 2016 the Fluency Duty was introduced. This duty is set out in the Code of Practice on the English language requirements for public sector workers under Part 7 of the Immigration Act 2016. The Code of Practice means that a public authority must operate a complaints procedure so that if a member of the public feels that a public-facing public authority worker has insufficient proficiency in spoken English for the performance of their role they can make a formal complaint to the local authority which is then investigated and a response provided.

For the purposes of the fluency duty, a legitimate complaint is one about the standard of spoken English of a public sector member of staff in a public-facing role. It will be made by a member of the public or someone acting on his or her behalf complaining that the authority has not met the fluency duty.

A complaint about a public sector member of staff's accent, dialect, manner or tone of communication, origin or nationality would not be considered a legitimate complaint under the fluency duty.

#### 1.2.4 Adoption services

The Regulations also provide that the following adoption-related functions may also be the subject of a complaint:

- Provision of adoption support services (as prescribed in regulation 3 of the Adoption Support Services Regulations 2005) insofar as these enable adoptive children to discuss matters relating to adoption;
- assessments and related decisions for adoption support services as prescribed in regulation 3 of the Adoption Support Services Regulations 2005 (Parts 4 and 5 of the Adoption Support Services Regulations 2005);
- placing children for adoption, including parental responsibility and contact issues (sections 18 to 29 of the 2002 Act);
- removal of children who are or may be placed by adoption agencies (sections 30-35 of the 2002 Act);
- removal of children in non-agency cases (sections 36-40 of the 2002 Act);
- duties on receipt of a notice of intention to adopt (section 44 of the 2002 Act);
- duties set out in regulations in respect of:
  - a local authority considering adoption for a child (part 3 of Adoption Agency Regulations 2005);

- a proposed placement of a child with prospective adopters (part 5 of Adoption Agency Regulations 2005);
  - placement and reviews (part 6 of Adoption Agency Regulations 2005);
  - records (part 7 of Adoption Agency Regulations 2005);
  - contact (part 8 of Adoption Agency Regulations 2005); and
- parental responsibility prior to adoption abroad (part 3 of Adoptions with a Foreign Element Regulations 2005).

#### **1.2.5 Complaints and Special Guardianship Support Services**

Special Guardianship Regulations 2005 came into force on 30 December 2005; under those Regulations the following functions may be the subject of a representation or complaint:

- financial support for Special Guardians;
- support groups for children and young people to enable them to discuss matters relating to Special Guardianship;
- assistance in relation to contact;
- therapeutic services for children and young people; and
- assistance to ensure the continuation of the relationship between the child or young person and their Special Guardian or prospective Special Guardian.

### **1.3 What is exempt from the complaints procedure?**

#### **1.3.1 The complaints procedure does not apply when:**

- the person wishing to complain does not meet the requirements of "who may complain" and is not acting on behalf of such an individual;
- the complaint is not in regard of the actions or decisions of this local authority, or of anybody acting on our behalf; or
- the same complaint has already been dealt with by our complaints procedure.

#### **1.3.2 Regulation 8 provides the local authority with discretion in deciding whether to consider complaints where to do so would prejudice any of the following concurrent investigations:**

- Court proceedings;
- Tribunals;
- Disciplinary proceedings; or
- Criminal proceedings.

#### **1.3.3 If the local authority decides not to consider, or further consider, complaints subject to these concurrent investigations, we must write to the complainant explaining the reason for their decision and specifying the relevant concurrent investigation (regulation 8(3)).**

#### **1.3.4 Once the concurrent investigation has been concluded the complainants may resubmit their complaint to the local authority as long as it is within one year of the conclusion of the concurrent investigation.**

### **1.4 Who may complain?**

#### **1.4.1 Section 26(3) and section 24D of the Children Act, 1989 and section 3(1) of the Adoption and Children Act, 2002 require the local authority to consider**

representations including complaints made to the local authority by:

- 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) 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;
- 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.

#### **1.5 Complaints made on behalf of a child**

- 1.5.1 Where a complaint is received from a representative acting on behalf of a child or young person, we will normally confirm where possible that the child or young person is happy for this to happen and that the complaint submitted reflects his/her views.
- 1.5.2 The local authority has the discretion to decide whether or not the representative is suitable to act in this capacity or has sufficient interest in the child's welfare. If our Complaints Manager considers that the representative does not have sufficient interest, he will notify the representative in writing, explaining that no further action will be taken.

#### **1.6 Complaints relating to a child**

- 1.6.1 We can also receive complaints by adults that relate to a child or young person but are not made on the child's behalf. The Children Act, 1989 gives discretion to local authorities to decide in cases where eligibility is not automatic whether or not an individual has sufficient interest in the child's welfare to justify the own complaint being considered by us. In reaching a decision, where possible, we can check with the child or young person that s/he is happy with the person making a complaint.

#### **1.7 Relationship to other Policies and Processes - Cross Referencing**

- 1.7.1 This procedure may be suspended if any of the following procedures are invoked:
- a) Disciplinary and Grievance Procedures
  - b) Child Protection Procedures

- c) Harassment Procedures
  - d) Police Investigation – Criminal
- 1.7.2 Other procedures may need to be viewed in relation to this document, e.g. The Corporate Complaints Procedure.
- 1.7.3 This Procedure also has implications for the purchasing of services. Independent Service Providers should have a suitable Complaints Procedure and service users should be advised that they have access to the authority's own procedure if necessary when their services are provided by, or on behalf of, the Local Authority.
- 1.8 Directorate Policy / Children's Services Policy**
- 1.8.1 The policy is framed to:
- comply fully with the legislation described in Section 1 and their associated guidance and directions.
  - be consistent with the Corporate Complaints Procedures and Policies.
  - provide a high quality and responsive service.
  - acknowledge that all people who receive services have a right to complain if they think that something that should have been done has not been done, or that something has been done badly or wrongly.
- 1.8.2 Complaints may be about services provided or purchased by the Children's Services Directorate. Complaints made under Corporate Procedures would concern the way that providing a service to others may impact upon non-service users.
- 1.9 Key Principles**
- 1.9.1 These procedures are designed:
- to promote user satisfaction;
  - to identify areas where services can be improved;
  - to be accessible;
  - to reflect the Directorate's desire to provide a high-quality service.
- 1.9.2 Information regarding the complaints procedure will be widely available. Copies of the complaints procedure and leaflets are available.
- 1.9.3 Complainants will receive whatever help and guidance they require to aid them in making a complaint or in understanding the procedure. Where appropriate this help will include the provision of interpreters and advocates.
- 1.9.4 Complaints will be investigated as quickly and thoroughly as possible, and in a positive problem-solving manner.

### **1.9.5 Deferring or Freezing Decisions**

Complainants must not be discouraged from making their complaints. The status of the provision of a service which is the subject of complaint would not usually be subject to change, delay, suspension or withdrawal while a complaint is being dealt with under this procedure. However, decisions may be frozen when a complaint has been made about such a decision/action which could have a significant impact on the life of an individual. The decision would be considered by the relevant operational manager and unless good reason could be shown for doing otherwise (e.g. where the Council needs to obtain a Care or Supervision Order to protect a child), the decision would be frozen pending the outcome of the complaint. The manager would be expected to record the reasons for not freezing a decision and to provide a copy to the Complaints Manager.

- 1.9.6 The investigation of complaints must preserve confidentiality and reflect the Directorate's commitment to equal opportunities and anti-discriminatory practice.

### **1.10 Definitions**

#### **1.10.1 Complaint**

An expression of dissatisfaction with the quality of service provided by, or on behalf of, the Directorate, or with the failure to provide a previously agreed service, or with the attitude or behaviour of members of staff.

For this Procedure Document, a complaint cannot be investigated where:

- a) it is dissatisfaction with a Court Decision in e.g. Child Care Cases, or where a remedy to a complaint is through an appeal to Court;
- b) the actions or events involving the Children's Services Directorate occurred more than 12 months prior to the date of the complaint unless one or more of the following circumstances apply:
  - i. The complainants can demonstrate that they have been making efforts to resolve the matter with the Children's Services Directorate within those 12 months.
  - ii. The complainants/service users were not aware, until beyond the period of 12 months, of the actions of the Children's Services Directorate which now form the subject of the complaint.
  - iii. The complainant was incapacitated by ill-health beyond the 12 month period which prevented him/her from making a complaint within the allowed timescales.
  - iv. The complainant was a child at the time of the action or event and could not be expected to have made a complaint until becoming an older child or an adult.

- c) There is a special procedure which already exists for dealing with a particular type of complaint e.g. Representations Procedure for adoptive applicants who are not approved (see Section 3.11) or an Employment Tribunal is available to examine complaints about recruitment.
- d) it has already been dealt with under the Complaints Procedure.

Where the complaint falls outside the time limit then the Complaints Manager must also decide whether the complaint can be considered effectively and efficiently. If the decision is that the complaint cannot be considered within these procedures then the complainant(s) will receive a written explanation. The letter will include information about being able to approach the Local Government and Social Care Ombudsman (LGO) to consider the decision.

#### **1.10.2 Complainant**

Complainants are the Persons from whom complaints are received, whether they are acting on their own behalf as Service Users or on behalf of Service Users. Wherever possible permission will be sought from the Service User for the complaint to be made. If complainants are not Service Users, nor acting on behalf of Service Users, their complaints may be eligible under the Corporate Complaints Procedure.

#### **1.10.3 Anonymous Complaints**

'A complaint received where the complainant does not wish to be identified.' Anonymous complaints must be acted upon, as much as possible, in the same way as all other complaints, although a response, of course, could not be given to the Complainant.

#### **1.10.4 Registered Complaints**

A complaint made or directed to the Complaints Manager who has designated responsibility for the co-ordination of the Complaints Procedure. The Complaints Manager will register complaints on the Complaints database. There is also a Directorate procedure on destruction of records which complies with the Data Protection Act 1999.

#### **1.10.5 Complaints Manager**

Each Local Authority is required to appoint a "Complaints Manager" responsible for managing the complaints and representations process. Within Shropshire Council this role is independent from the operational services and works with complaints officers who may carry out actions on his/her behalf (including the Statutory Complaints Officer).

#### **1.10.6 Advisor to the Complaints Panel**

This role is to serve as adviser, on the process of the Review, to the Review Panel at Stage 3 of the complaints process. Within Shropshire Council that person would normally be Complaints Manager, a Team Leader or the Statutory Complaints Officer.

#### **1.10.7 Representations - Comments and Compliments**

- Suggestions for improving services.
- Suggestions for new services.
- Thanks for something done or done particularly well.
- To maintain a positive approach to this procedure all representations will be monitored and recorded.

#### **1.10.8 Advocate**

An Advocate is a person who is able to speak on behalf of a service user (not to be confused with a lawyer) in respect of a complaint or representation. Children wishing to make a complaint should be offered help through the Council's commissioned advocacy service. (Please speak to a complaints officer for details).

#### **1.10.9 Responsible Manager**

The Manager within Children's Services who is responsible for producing the written response to a complaint.

### **1.11 Values**

This policy sets out certain values that the Directorate holds to be implicit in this process:

- That services and information about services should be readily available and easy to understand.
- That children and young people, and their parents/carers, are involved as fully as possible in our processes to promote better services.
- That individuals have rights, and can ask the Directorate to account for its action or inaction on their behalf.
- That individuals have the right to redress when the services provided have not been good enough, and when there has been an injustice caused by the Directorate.

These values imply a number of things for Children's Services and for our staff:

- That partnership in the caring process is central to providing appropriate, effective services.
- That the Directorate should be trying to provide a quality service. Where this does not happen, for any reason, then the Complaints Procedure offers a means of redress and of improving the quality of the service provided.
- The rights of individuals to complain is clear. However, the rights of staff to equally fair treatment is also explicit. This procedure does not provide a means of placing one person's "rights" above those of another.

## **Section 2 – Representations Procedure (including Complaints)**

### **2.1 Introduction**

This section details the Procedure for handling all Representations which must be registered with the Complaints Manager.

**Positive Representations - Compliments** It is important that the Directorate reflects the positive statements made by the general public as well as the negative comments about services. There is a separate internal process to acknowledge the compliment with the sender as well as recognising staff performance.

**Representations - Comments, Suggestions** There will be other forms of representation made. This includes criticisms which the customer does not wish to regard as a complaint and these will be handled as comments. Some comments will be for noting and others will be for action and require a response. Where a response is required the appropriate officer within Children's Services will respond within 20 working days of receipt (if more time is required this will be negotiated and the reasons for delay explained). These comments/representations also present an opportunity to improve services.

#### **Representations – Complaints**

**Issues to consider when receiving a complaint:** Concerns or worries are often raised as part of normal everyday interaction between council services and customers. Normally these will be easily resolved by staff working on a day-to-day basis with the complainant. However, there may be complaints that cannot be resolved in that way to the complainant's satisfaction. Factors which all staff should consider before a complaint is registered under the complaints procedure include:

- Has the concern been raised by the complainant before, and what action has been taken to resolve the complaint?
- Is the complainant still dissatisfied after they have discussed their concerns with the staff working with them on a day-to-day basis?
- Where a complaint can be resolved immediately (within 24 hours) e.g. giving information or clarifying an enquiry, complaints do not have to be recorded for the Complaints Procedure. Where problems cannot be resolved immediately need to be handled in line with the complaints procedure.
- Does the issue raised require referral to a manager, or consideration at a higher management level?
- Are the issues raised by the complainant serious (for example there are wider implications or there is a high risk level associated with the issues)?
- Is the complainant making allegations about the conduct or attitude of staff?
- If the complaint is not being made by the service user, does the service user know of the complaint and is the complainant acting on the service user's behalf?
- If the complaint is about the service received from an independent care provider we contract with, are we working in line with our approach to provider complaints? Has the provider taken steps towards a resolution?

- Is the complaints procedure the most effective way of dealing with the problem, e.g. should advocacy or conciliation be considered?
- Has the complainant had the complaints procedure explained?
- Have the people making the representation made it clear that they wish their representation to be regarded as a complaint to be investigated under the complaints procedure?

### **Advocacy for Children**

It is a requirement that all Local Authorities arrange for advocacy for children and young people who make, or are considering making, a complaint about services received under the Children Act 1989. This will require that staff who are working with such children will have to help them find an advocate. The child or young person can choose to use another person such as a teacher, social worker or older friend as an advocate. The child or young person is not required to accept the offer of advocacy and can choose at any point whether to continue with an advocate or to take up the offer of advocacy when initially it was not accepted. Where there are doubts about the use of advocacy then staff should consult with the Complaints officer.

### **Complaints Procedures**

There are three Stages to the complaints process:

- |         |   |  |
|---------|---|--|
| Stage 1 | – | Local Resolution or Informal Problem Solving Stage |
| Stage 2 | – | Formal investigation                               |
| Stage 3 | – | Review Panel                                       |

All complaints must be registered with a Complaints Officer/ registered on the Council's complaints system.

## **2.2 Complaints Stage 1 – The Local Resolution Stage**

- 2.2.1 Complaints made at a local level should be resolved at that level if at all possible.
- 2.2.2 All staff should promote the Comments, Compliments and Complaints philosophy and procedures.
- 2.2.3 All staff have a duty to record complaints/representations and to ensure that they are logged on the Council's complaints system and/or that a Complaints Officer is aware of the complaint.
- 2.2.4 It is important that staff take a positive approach to resolving complaints and remember that trying to understand the complainant's position is vital to achieving resolution.
- 2.2.5 Customers must be advised of their right to complain or to make a representation and should be given a copy of the appropriate complaints leaflet and/or a verbal explanation.
- 2.2.6 A complainant can stop this process AT ANY POINT by withdrawing the complaint or by accepting a solution offered by staff. Complaints can be

made verbally, in writing, by e-mail or by audio recording. When the complaint is taken verbally then a written account of the complaint is sent to the complainant by the receiver of the complaint (in order to check accurate interpretation), unless this is not required by the complainant.

#### 2.2.7 Procedure for Stage 1 Complaints

- a) All complaints must be forwarded to a Complaints Officer to register the complaint or logged on the Council's complaints system.
- b) The Team/Unit Managers of the recipients of the complaint must inform their Line Managers and a copy of the complaint sent to a Complaints Officer. Complaints received will be acknowledged in writing within 3 working days. The complainant will also be sent a complaints leaflet, including brief information on the procedure, if the complaint was not sent in by leaflet. The Complaints Manager would arrange with the appropriate Head of Service or Team Manager, as the 'Responsible Manager', for a written response to be sent within 10 working days of receipt of the complaint within the Directorate.
- c) Children in local authority residential care should be given a choice of how to complain. They can make the complaint directly to the local authority to investigate or choose to have their complaint investigated by the service provider under their own complaints procedure. (This option only applies where the complaint concerns the operation or management of the home and not the actions of other parts of the local authority). This allows the service provider an opportunity to redress any mistakes
- d) On receipt of the complaint from the Complaints Officer the responsible manager, normally Head of Service or Service Manager, should consider meeting, or contacting, the complainant as soon as possible, but in all cases within 7 working days, unless there is good cause not to do so, e.g. the matter is very simple and can be easily resolved or robust information is available without the need for a further conversation. (Feedback from complainants reveals that more complaints are resolved when there is face to face communication).
- e) Information and an explanation of the Complaints Procedure should be given to the complainant.
- f) If the complainant is not the service user then the appropriate checks should be carried out to ensure consent is in place or that the complainant is able to act on behalf of the child/customer. If appropriate a check should take place to ensure the customer is aware of the complaint and to confirm their desired outcomes. This may be more appropriate when working with older children and young people. (NB: At the Local Resolution stage complainants often simply require an explanation of action taken by the Directorate).
- g) Any member of staff who is the subject of the complaint cannot act as the Responsible Manager and the complaint would be passed to the next Line Manager.

- h) If the matter cannot be responded to within 10 working days the Responsible Manager will write to the complainant to explain why an extension of up to another 10 working days is required. This would usually be because the complaint is more complicated or a vital person is not available. We will advise complainants that they can ask that the complaint be dealt with at the next stage if they feel that we are taking too long to respond outside of the time limits.
- i) The Responsible Manager at Stage 1 should advise the complainant in writing if s/he is having difficulties responding within the prescribed time, together with the reasons for the delay, and also inform the Complaints Manager.
- j) The person looking into the complaint (the Responsible Manager) must advise the complainant(s), within the written response to the complaint, of their rights to proceed to stage 2 if they are not satisfied with the outcome at stage 1.
- k) The Responsible Manager at stage 1 should ensure that all staff who are involved in the complaint are consulted wherever possible when seeking a resolution and are, in all cases, kept up to date on the progress of the complaint.
- l) The outcome of the complaint must be discussed fully by the Responsible Manager with all staff who have been involved.
- m) A copy of the written response to the complainant should also be passed to the Complaints Officer for recording and to the appropriate Assistant Director.
- n) The complainant has 20 days to decide whether or not to accept the offered resolution or response at this stage. The 20 days commence on the date that the complainant will have received the written outcome from the responding manager. The complainant needs to be informed of this timescale in the manager's written response. It is at the discretion of the Council (Complaints Monitoring Officer) whether or not to accept the complaint if the 20 day timescale is missed.

#### **2.2.8 Resolution and Remedies**

The aim in dealing with all complainants is to reach a resolution or remedy that satisfies the complainant and the Council, whether it is the remedy they were originally seeking or not. Where a complaint is found to be at all justified, consideration needs to be given to the question of appropriate remedy.

An apology or explanation will always be needed where any part of the complaint is upheld. The general principle is that, as far as possible, the complainant should be put in a position he or she would have been in had things not gone wrong. In some cases this may be quite simple. In others it may be necessary to determine:

- who can provide remedial action;
- what arrangements are needed to carry out the remedy;

The Directorate would seek to operate within the Local Government and Social Care Ombudsman's document 'Remedies - Guidance on Good Practice'.

The Directorate's Performance Management Group will operate to ensure that the approach to remedies is consistent.

The Council's guidance in the use of financial redress is that this should be made in exceptional circumstances where some direct financial loss has been incurred, and where agreement has been reached with the Corporate Director as well as the Corporate Complaints Monitoring Officer within Legal and Democratic Services.

This approach to remedies would apply to all 3 stages of the Complaints Process.

## 2.3 STAGE 2 - Investigation Stage

2.3.1 Complaints will be registered under stage 2 of the procedure if:

- 2.3.1.a Resolution at Stage 1 has proved impossible.
- 2.3.1.b The complainant considers that we have taken too long outside of the timescales to respond to the complaint.
- 2.3.1.c If the Complaints Manager (or officer acting on their behalf) agrees with the complainant's request that a complaint should bypass stage 1.

### 2.3.2 Procedure

- a) On receipt of the Stage 2 request the Complaints Officer (on behalf of the Complaints Manager) will ensure that the matter is registered and that all relevant parties are notified.
- b) Conciliation The Complaints Officer will continue to seek resolution of the problem throughout the process. The Complaints Officer will explore whether there is scope through acting as a conciliator between the complainant and Children's Services Directorate staff for an agreed resolution. The complainant will be asked to accept conciliation on the basis that if the complainant is not satisfied by the conciliation, and the resultant written record, then a request to resurrect the Stage 2 complaint would be acted on. Where the complainant makes this request it should be done in writing within 20 days of receipt of the written complaint response. The request will be considered and discussed with the complainant. The timescales for the Stage 2 investigation would then start from the date of receipt of the complainant's written request
- c) An Investigating Officer would normally be appointed within 7 working days to look into the matter and seek a positive resolution.
- d) All complaints involving childcare issues, within the Children Act 1989, require an Independent Person to be arranged by the Complaints Manager, through independent service provision.
- e) The Complaints Manager will ensure that the complainant and all appropriate staff are notified in writing of the registration of the complaint.
- f) The timescale allowed within legislation for the investigation and the response from the Children's Services Directorate's relevant Head of Service, i.e. a total of 25 working days. Where the complaint is more complex the Council can extend the timescale up to a total of 65 working

days. If an extension is needed a Complaints Officer will write to the complainant(s) and provide an explanation. The 25 working-day period includes:

- a) appointments of an Investigator and Independent Person (IP);
  - b) the investigation and report writing;
  - c) the Independent Person's consideration of the report and the writing of the Independent Person's report;
  - d) the response from the relevant Assistant Director. Unless the complaint is uncomplicated then a response may often require some extension.
- g) The Investigating Officer, with the Independent Person, should meet with the complainant as a priority after being appointed in order to clarify the complaint, discuss the expected outcome and to produce an agreed written account of the complaint(s) being investigated.
- h) An external Investigating Officer, where appointed, must provide written confirmation of the complaint, signed and dated by the complainant to the Complaints Manager/Officer, as soon as possible after the first meeting with the complainant. This external officer must also act within the written contract/standards undertaken with the Council for this task
- i) The Investigating Officer must carry out the investigation in line with the guidance documents and write a report of the investigation following the report format provided.
- j) Where an Independent Person is involved, s/he must confirm in writing, having seen the Investigating Officer's report, his/her view of the 'fairness' of the investigation and provide a brief written report of the complaint to the Complaints Manager/Officer.
- k) Both reports are then sent by the Complaints Officer to the appropriate Assistant Director for consideration. The Assistant Director is required to involve the Independent Person in discussions about conclusions drawn from the investigation and actions which are being considered. Copies of the reports together with the Local Authority response will be sent by the Assistant Director to the complainant. The Assistant Director would also send a copy of the written response to the complainant's advocate (if they have one) and the Complaints Officer, who will forward to the Investigator and the Independent Person.
- l) The Assistant Director's response will reflect the Directorate's view of the recommendations and a copy of this will be available through the Complaints Officer for all those involved in the complaint.
- m) On receipt of the report the complainant(s) have 20 working days to register dissatisfaction, either to the Assistant Director or the Complaints Manager/Officer, about the report and the Assistant Director's response; this right will be explained in the written response from the Assistant Director. If the complainant(s) is dissatisfied they may request a Review Panel.

## **2.4 STAGE 3 - The Review Panel – procedures and protocol**

2.4.1 Stage 3 allows people to have an independent review of the response to their complaint(s). The local authority is required to appoint the Review Panel which must comprise three people independent of the Local Authority. The Panel will be appointed to take account of the gender and ethnicity of the complainant and, wherever possible, some familiarity with the type of complaint under consideration.

The Directorate will ensure that the following arrangements are made for the Review Panel. A Complaints Officer working on behalf of the Complaints Manager will usually make the arrangements.

- a) Selection and appointment of the Independent Review Panel.
- b) Arranging an appropriate date and time.
- c) Arranging the venue.
- d) Secretarial support to the Review Panel.
- e) The conduct of the meeting.

### **2.4.2 Key Principles of the Review Panel**

- a) The purpose of the Panel is to consider complaints under the Local Authority Social Services Act 1970, as amended by the Children Act 1989.
- b) The Panel should only consider:
  - Whether or not the complaints process was carried out properly and fairly (**Process**).
  - Whether or not the conclusions reached by the investigators on the basis of the material available were reasonable and fair (**Investigation**). Whether or not action taken by the Assistant Director on the basis of the report(s) was appropriate, having regard to all the circumstances (**Action**).
  - Whether or not the complainant's expectations for resolution have been met and whether or not more can be done to help achieve this. This includes seeking a remedy to any injustice to a complainant caused by the Local Authority's actions which they could reasonably have prevented (**Resolution**).

It is **not** to:

- Conduct a new investigation or re-hearing of the complaint (see above).
- Deal with any new matters raised by a complainant which were not part of the original complaint or investigation. (In exceptional circumstances a new complaint could be considered if the Panel felt that they could deal appropriately with the new complaint, taking into account the views of the relevant Assistant Director).
- Cover any decisions made by a Court or where an appeal against a decision lies through a Court process.

- c) The Panel will review the complaint; consider the reports, and the written response from the Assistant Director.
- d) A problem solving approach will be taken to the complaint.
- e) The Panel will not take an inquisitorial or legalistic approach to the review.
- f) The Panel may adjourn if necessary.
- g) The Panel will be held under the normal practices of confidentiality.

#### **2.4.3 Procedure**

- a) The complainant has 20 working days from the date they receive the Stage 2 report and the Assistant Director's written response in which to register dissatisfaction with the outcome and request that the matter be considered by a Review Panel. A Complaints Officer, within 3 days of receipt, will acknowledge receipt in writing of the request to proceed to Stage 3. The complainant will also be asked to make a written submission about their reasons for considering that the Local Authority response has not been satisfactory and to state what outcome is sought from a Review Panel. Such a written submission made by the complainant is helpful to the Panel in their preparation reading for the Review meeting. Any written submissions will be available to the Panel and all those attending.
- b) The Panel will be convened within 30 working days of the receipt of the request. Where not, the complainant will be kept informed.
- c) The Investigating Officer and the Independent Person will be expected to attend. The appropriate Assistant Director will present the Local Authority's case to the Panel. The complainants are entitled to bring a supporter or a representative who can present the case on behalf of the complainant.
- d) At least 10 working days before the Panel the complainant(s), their representative and all other parties, including the Panel Members, will receive a letter of notification and papers submitted by the Directorate. Those papers will include information from Stage 1 (as relevant), the Stage 2 reports, the Directorate response, any written submission from the complainants and copies of relevant policy or practice guidance including a copy of the Review Panel Procedure. If any written submissions are received outside of these timescales then the Chair will decide whether it can be accepted.
- e) All participants must be given the same information. (In very exceptional cases there may be information known to the Directorate's representative which relates to confidential issues related to another service user. In those circumstances that information could not be provided to the complainants or the Panel but may inform the Corporate Director in making the written response). Issues of race, language, culture, disability, age and gender must be taken into account in setting up the Panel.
- f) Letters and papers will be submitted by a Complaints Officer.

- g) The letter should clearly set out what is required and should set out the following:
- date, time and venue of the Panel,
  - names and status of Panel Members,
  - names and status of all other participants,
  - the name of the person who will be taking the record of the meeting,
  - the right of all participants to make written submissions to the Panel prior to the meeting (subject to section d).

The Directorate will seek to ensure that the letter is written in another language if requested.

- h) The meeting will normally be constructed in three parts; pre-meeting, presentations and deliberation.

i) **Pre-meeting**

The Panel and their administrative support, and the Advisor to the Panel if requested, will meet in closed session to discuss the order of the meeting and how they will operate as a Panel.

j) **Presentations**

The Panel should be conducted in an informal way but with proper respect for all parties, and the need for a fair and impartial process. The process will be as non-adversarial as possible; the Chair would be expected to ensure that informality is retained as much as possible. All parties should have had the opportunity to read submissions made to the Panel. All papers prepared for the Panel must be available for all participants to read.

The complainant(s) may bring someone to speak on their behalf, or a supporter if conducting their own presentation to the Panel. The complainant may select a Solicitor, but must act in the manner referred to within the above paragraph. The Complaints Officer will offer advice as needed to the complainants about obtaining a supporter/advocate.

The Chair should open the proceedings by explaining the purpose of the meeting, setting timescales, advising participants of their right to speak and carrying out introductions, and confirming the principles of confidentiality.

Arrangements must be made for comfort breaks. Refreshments should be available. The meeting will not continue for more than three hours unless agreement is reached by all parties to an extension.

The complainant or the representative will be invited to speak to the Panel first, followed by the Assistant Director. The complainant or representative and the Assistant Director will be able to ask questions about what each state before the Panel. The Panel will be able to ask questions of both parties, the Investigating Officer and the Independent Person.

All comments should be received via the Chair.

The standard applied by the Panel is expected to be the civil standard of 'balance of probabilities' and not the criminal standard of 'beyond all reasonable doubt'. This standard should be based on evidence and facts.

When all representations have been made to the Panel the meeting will end.

**k) The Panel's Deliberation**

The Panel, with assistance available from the Appointed Advisor to the Panel and the Clerk to the Panel, will then consider whether or not to uphold each complaint (or element of the complaint) and what actions, if appropriate, they would recommend should follow from the information heard.

The Chair of the Panel will ensure that a written report is sent within 5 working day to the complainant, all parties to the Panel and also to the Corporate Director of the Children's Services Directorate. The Panel's report will include:

- i) a brief outline of each complaint and their detailed reasons for upholding or not upholding **each part of the complaint**;
- ii) where the Panel's view is to uphold a complaint then they would also include any recommendations they would wish to make about a resolution to the complaint;
- iii) should the Panel not wish to uphold a complaint they could still make a recommendation (arising from the Panel Hearing) which they feel may improve future services;
- iv) an explanation that the Corporate Director of the Children's Services Directorate will consider the Panel's conclusions and recommendations and therefore produce the Authority's response.

**l) The Local Authority's Response to the Complainant**

The Corporate Director should consider his/her response to the complainant in the light of the Panel recommendations. The Corporate Director is required by regulation to discuss with the Independent Person (I.P) appointed at Stage 2 what actions if any s/he would be considering. The Corporate Director is not bound to follow the recommendations of the Panel but if s/he chooses not to, must make his/her reasons clear in the written response.

The Corporate Director will notify the complainant, within 15 working days of receiving the Panel recommendations, the written actions which s/he proposes to the complainant with the aim of resolving the complaint.

The complainant(s) should be informed by the Corporate Director that this is the end of the Local Authority's Procedure. They should also be informed of their opportunity to approach the Ombudsman if they remain dissatisfied.

- m) Staff involved should also be notified by the Complaints Officer that the complaints process has been completed and be advised of the outcome proposed by the Corporate Director.
- n) All records will be stored by the Complaints Manager (or officers acting on behalf of the Complaints Manager) and kept confidentially, in line with other Authority procedures for safeguarding and managing records.
- o) A Complaints Officer will seek feedback from appropriate managers to ensure that actions proposed by the Corporate Director are acted on. This feedback process is a feature of all stages of the complaints process.

## **2.5 Evaluation and Monitoring**

- 2.5.1 All Managers concerned must keep records of complaints and actions recommended from complaints and ensure that actions are carried out. The Complaints Manager will seek confirmation from the relevant manager of those proposed actions and will use this information in both an Annual Report and other reports required by the Director.
- 2.5.2 The Annual Report will be prepared by the Complaints Manager (or nominated deputy) and will detail the complaints and representations received, their outcomes and compliance with timescales. In particular, the emphasis of the report would be on how the Directorate has learned from all types of representation and how changes in practice or procedures have resulted.

## **2.6 External Procedures**

If the complainant remains dissatisfied following the Corporate Director's response at Stage 3 s/he may make representations to:

- a) The Local Government and Social Care Ombudsman;
- b) The Secretary of State (Section 84 of the Children Act 1989; Section 7d of the Local Authority and Social Services Act 1970); or
- c) Seek legal advice on whether any further action through the Courts is available and appropriate. This may include, for example, an application for Judicial Review.

## **2.7 Complaints to the Ombudsman (LGO)**

### **2.7.1 Introduction**

The Local Government and Social Care Ombudsman (LGO) is independent and impartial, gives a service which is confidential and free of charge, and has the same powers as the High Court to require people to provide information and to produce documents for investigation.

- 2.7.2 Any member of the public is able to complain to the Local Government and Social Care Ombudsman if s/he feels there has been an injustice. However, the Ombudsman's office usually states that complainants should first take up their complaint with the relevant Department or Council before writing to that office.
- 2.7.3 If the complainant is dissatisfied with the Director's response to the Complaints Review Panel report, it remains open to them to make a formal written complaint to the Ombudsman. The Director's response at Stage 3 would include reference to contacting the Local Government and Social Care Ombudsman. The Ombudsman will decide whether or not to take up the complaint.

### **2.7.4 Policy**

To ensure that staff are aware of the work of the Ombudsman and to ensure appropriate contact between the Directorate's staff and the Ombudsman.

## **2.7.5 Referral to the Ombudsman**

If staff are asked by enquirers about an approach to the Ombudsman, they should first encourage them to use the appropriate Council Complaints Procedure.

If the enquirer still wishes to approach the Ombudsman, then the office which covers Shropshire is:

Local Government and Social Care Ombudsman,  
PO Box 4771,  
COVENTRY,  
West Midlands,  
CV4 0EH,

Tel: 0300 061 0614  
Website: [www.lgo.org.uk](http://www.lgo.org.uk)  
Email: [advice@lgo.org.uk](mailto:advice@lgo.org.uk)

If staff become aware that an enquirer will be writing to the Ombudsman, a Complaints Officer should be informed.

## **Section 3 – Complaints involving other agencies/ procedures or requiring variations of the Complaints Procedure**

### **3.1 Procedure for complaints against Directorate Policy**

- 3.1.1 Where a complaint is a single issue of a complaint made against Council Policy it would receive a different process. An officer in the relevant part of the Directorate would seek to explain the existing policy. If that was not satisfactory to the complainant, then the complaint would be referred to the relevant Assistant Director and to a Complaints Officer who would register the complaint and acknowledge receipt in writing to the complainant. The Assistant Director would investigate whether action should be taken to recommend a change in policy or whether the matter should be referred to the Corporate Director for consideration by an appropriate Councillor Committee. All complaints and representations, including those concerning Council Policy, are also reported annually to Council Members.

### **3.2 Complaints involving Multi-Disciplinary Teams**

Within the Directorate there may be a number of Teams which operate on a multi- disciplinary basis with professionals from other agencies. In these cases a joint approach will be taken. A lead agency may be chosen to coordinate the complaint, bringing information together, to assist in developing a combined response for the complainant.

### **3.3 Complaints concerning staff of the Directorate**

- 3.3.1 There is no reason to record a complaint, made by a user or carer, in a member of staff's file unless it becomes a disciplinary issue.
- 3.3.2 The Line Manager, as part of the normal supervision process will, in the first instance, provide staff support.
- 3.3.3 If it becomes apparent that disciplinary procedures need to be invoked then investigation/resolution of the complaint would normally be suspended until those procedures have been completed.
- 3.3.4 Line Managers will inform staff of the outcome of all complaints in which they are involved. The Line Manager will have a copy of the report from Stage 2 to enable that feedback. A copy of the Report and response would not be kept on the service user's file; instead an entry would be made on the file with the complaint reference number and a reference to a copy being housed within the complaint records.
- 3.3.5 Line Managers must maintain confidentiality in feedback, particularly in respect of other members of staff who may have been involved in the complaint.

### **3.4 Grievance and Disciplinary Procedures**

- 3.4.1 The Complaints Procedure will be kept clearly separate from both Disciplinary and Grievance Procedures. Grievance Procedures concern staff issues, i.e.

conditions of service, management and support. Staff are not eligible to raise their concerns about Directorate services through the Complaints Procedure. The Grievance Procedure can be found on the staff intranet.

- 3.4.2 Disciplinary Procedures apply to the action of staff in relation to failures to comply with codes of conduct, job descriptions, practice instructions and procedures.
- 3.4.3 Where a complaint procedure has been suspended, pending the outcome of a staff disciplinary process, then the manager dealing with that process should, at its completion, alert the Complaints Manager. This is to ensure that the complaint then receives appropriate action.

**3.5 Complaints concerning allegations of abuse by Children's Services Directorate 'staff' against children**

- 3.5.1 The Complaints Procedure will only apply to those allegations of abuse or ill-treatment made against Council staff, Council carers (foster children) or any agency that the Council has contracted to provide a service on behalf of the Council.
- 3.5.2 Any complaints received by the Complaints Manager which suggest that a child may have suffered, or be at risk of suffering, significant harm will be discussed with an appropriate manager to determine whether any of the following procedures should be followed prior to the Complaints Procedure:
  - Child Protection procedures
  - Criminal investigations

The Complaints Manager will also inform the Care Quality Commission (CQC) if any complaint involves a service which is registerable with the Commission.

- 3.5.3 Any allegation of abuse or ill-treatment registered as a complaint would still require a written response under the Complaints Procedures. After the Child Protection Procedures have been carried out the relevant Manager would be expected to investigate further any outstanding matters from the complaint which were not dealt with within the protection procedures.  
The Manager would reply directly to the:
  - the complainant,
  - the young person (unless he or she is not of sufficient understanding)
  - parent of child,
  - advocate

The reply would also refer to any additional matters.

## **3.6 Complaints concerning Child Protection Conferences**

### **3.6.1 Introduction**

The only decision that may be made by a Child Protection Conference is that related to Child Protection Registration. This decision is a multi-agency one made by professionals in attendance on the basis of an analysis of the perceived degree of risk to a child. The Register is not intended to apportion any blame but to recognise a situation that constitutes a risk of significant harm, and indicates the agreed need for a Protection Plan.

Child Protection Conferences can be very emotive occasions for parents, carers and possibly children. They are faced with a number of professionals who consider very personal details of their lives. At the end of the Conference they reach conclusions as to whether or not there is risk of harm or abuse.

It is understandable, therefore, that sometimes there is discontent with the Conference or the outcome.

Councils with responsibility for social services functions are required by the Children Act 1989 to establish complaints procedures. Matters covered by Part V of the Children Act (which relates to the Protection of Children) must be responded to in accordance with the Children Act 1989 Regulations Procedure (England) Regulations 2006. Guidance in 'Working Together to Safeguard Children' (Department for Education and Skills 2006) has been issued on the subject of complaints in relation to Child Protection Conferences.

The successful operation of the Complaints process will, however, depend on making a distinction between disagreement with the decision, on the one hand, and defects in the process of the Conference on the other. Failure to accept a decision made in good faith to protect a child will not, in itself, be justification for the process to be used in full.

This procedure for making complaints may be used by:

- Parents or others with Parental Responsibility
- Carers
- Child/ren who are subject to the Child Protection Conference where they are of sufficient age or understanding. This could include someone acting on their behalf.

### **3.6.2 Procedure.**

1. The information leaflets sent out prior to the Child Protection Conference shall include a statement about the right to comment and complain.
2. When the Chair receives a complaint s/he will pass the details within twenty-four hours to the Children and Young People's Services Directorate's Complaints Manager. Their responsibilities include the investigation of Complaints relating to the Children Act. The information will also be sent to the Head of Safeguards
3. If the Complaint relates to either any allegation that the Conference was

not constituted as defined in Shropshire Safeguarding Children (SSCB) Procedures, or any reports with regard to the manner in which the meeting was chaired, then the Head of Safeguards will respond.

If however, the complaint concerns the actions of an agency representative during the Conference, then the Complaint will be passed to the relevant agency to be dealt with under that agency's own formal complaints procedures.

4. The Complaints Manager/ Officer will, if necessary, clarify the details of the complaint and send an acknowledgement letter to the Complainant within 5 working days.
5. The Head of Safeguards will prepare a report on whether the relevant inter-agency protocols and procedures have been observed correctly, and whether the decision that is being complained about follows reasonably from the proper observation of the relevant protocols and procedures. The Head of Safeguards, as part of the investigation, will meet with the Complainant, and the Chair. S/he will meet with anyone else as necessary. The Head of Safeguards will decide whether the criteria to reconvene the Conference are met. See 3.6.4 for criteria for decision making.
6. The Head of Safeguards will provide a written response to the Complainant within twenty working days of the complaint being received. A copy of the response will be sent to the Complaints Manager/Officer. The response will include details of how to take the complaint further if not satisfied with the response.
7. If the Head of Safeguards considers that the criteria for a reconvened Conference are satisfied this will be held within 15 working days of the decision of the Head of Safeguards, under the authority of a different Chairperson. It should be recognized, that the Conference is a dynamic process and any reconvened conference would need to consider the latest situation rather than attempt to rehear the information presented at the original meeting. Changes in circumstances, or additional information, would need to be taken into account by the reconvened Conference.
8. Following a reconvened Conference (if held) the Complaints Manager will contact the Complainant within 5 working days of their receiving the minutes to enquire whether the complaint is regarded as resolved. The prompt distribution of minutes will be regarded as a priority in cases subject to complaint.
9. If the Complainant does not regard the matter as resolved, the Complaints Manager/ Officer will then convene a Panel, comprising three persons from a list of senior representatives of Shropshire Safeguarding Children Board (SSCB) member agencies. A report, prepared by the Head of Safeguards, will be considered by the members of the Panel. Details of the complaint will be sent to the members of the Panel, at least 5 working days in advance.
10. At the hearing the procedure to be adopted should be explained to the Complainant. The Complainant may have a person present to support them. This person can be a solicitor if the Complainant wishes.

The panel may decide to:

- Uphold the complaint and request a further Conference to be convened, or;
- Dismiss the complaint.

The only remedies available to the Complainant are an apology or explanation.

The Chair of the Panel will confirm the outcome to all parties and explain the reasons. The Chair of the Panel will also write to all parties within five working days to set out the decision and reasons in writing. A copy of the response will be sent to the Chair of the SSCB.

11. The Head of Safeguards will ensure that details of all complaints are reported annually to SSCB.

### **3.6.3 Summary**

- I. Complaint received by Chair
- II. Complaint passed to Complaints Manager.
- III. Complaint investigated by Head of Safeguards.
- IV. Decision relayed to Complainant – possible reconvened Conference.
- V. If not resolved Panel consideration of matter
- VI. Decision relayed to Complainant – possible reconvened Conference.

### **3.6.4 Criteria for decision making**

- Was relevant information shared at the Child Protection Conference?
- Did the conference consider all the information presented?
- Was there discussion, to explore the significance of relevant risk/protective factors to ensure that the Conference was able effectively to analyse risks for the child?
- Did the registration decision reflect the information reasonably shared and the balance of risks?
- Were the procedural guidelines for registration followed?
- Was it made clear why an interagency Protection Plan was necessary to help manage risks?
- Was any disagreement/dissent by agency representatives recorded at the Conference **and** had there been sufficient discussion of these views?

### **3.7 Complaints from Foster Carers**

- 3.7.1 Complaints by, or about, foster carers can be complex and sensitive. The legislation and guidance is not specific as to how these complaints should be processed however, legislation and guidance relevant to matters of this nature is as follows:
- a) **Children Act 1989, Schedule 7 as restated in the Fostering Services Regulations 2002:** Gives foster carers the right to complain under the Children Act statutory Complaints Procedure about the Local Authorities' refusal to exempt the foster carers from "the usual fostering limit".
  - b) **Children Act 1989, Section 26(3) and Children Act Volume 3, 10.6.d:** Gives foster carers the right to complain under the statutory Children Act Complaints Procedure on **behalf of the child** in their care.
  - c) The Local Authority can also consider foster carers making a complaint on their own behalf, for example if they feel they have not received the support, information or services they need i.e. complaints not covered by sections a) and b). In these circumstances foster carers registered with the Shropshire Children's Services Directorate may make a complaint under the Statutory or Corporate Complaints Procedures (as appropriate).

- 3.7.2 Foster Carers should record Complaints and Representations made to them by children in their care and register these with a Complaints Officer who will notify the relevant section.

### **3.8 Complaints about Foster Carers / Prospective Adopters**

- 3.8.1 Complaints about foster carers and/or prospective adopters may be made by the child or young person, parents, teachers, independent persons, the community etc - or could be anonymously made.
- 3.8.2 When a complaint is received about foster carers by any Directorate staff then it should be referred to an appropriate manager and "Allegations Against Foster Carers Procedures" (Chapter 3.23 in Tri-X procedures) should be acted on. The Manager who receives the complaint should first consider:
- a) Are the issues a child protection or criminal matter? If so, the complaint/allegation must be recorded as a complaint, referred to the Complaints Manager, and the complainant informed that there will be a delay in responding. The complaint must then be dealt with immediately by the child protection or criminal procedures.
  - b) If the Complaint involves a Child Protection Investigation the complainant may wish to reserve the right to have the complaint looked into following the investigation.
  - c) All decisions involving Foster Care Complaints must be carefully recorded and passed to the Head of Children's Placement Service **and** to the Assistant Director. Those involving prospective adopters should be passed to the Head of Adoption Services and to the Assistant Director for Social Care & Safeguarding.

### **3.9 Complaints from prospective adoptive applicants**

Prospective adopters may wish to complain about the accuracy of the assessment process, or the manner of staff conducting the assessments etc. These are all eligible complaints within these complaint procedures. However the recommendation by the Adoption Panel to approve or not to approve prospective adoptive parents **cannot** be considered under this Complaints Procedure. There is a separate Representations Procedure based on the Adoption Agency Regulations 1983 - Circular LAC (84)3 within the procedure Functions and Membership of the Adoption Panel. (See Policy and Procedures 10 in the Directorate's Adoption Policy and Procedure Documents).

### **3.10 Representations or complaints about a child or adult placed in the area of another Authority by the Shropshire Children's Services Directorate**

- 3.10.1 These instructions will apply to both independent and local authority residential provisions in other local authority boundaries.
- 3.10.2 Contracts with other Local Authorities and/or with privately provided residential carers should contain information detailing responsibilities for complaints handling.
- 3.10.3 Each residential home is required to have its own complaints procedure whilst the complainants also have the right to have their complaints considered by the CQC (CQC operates a memorandum of understanding and working arrangements with the Local Government and Social Care Ombudsman) or the Children's Services Directorate as the purchasing authority. The arrangements should be clearly communicated in writing to the child and those with parental responsibility prior to, or on, placement and confirmed during each review. Regardless of the arrangement, children and young people placed by the Authority should also be given information on how to make a complaint to the local authority.
- 3.10.4 If a representation or complaint is received which involves more than one Local Authority, it should be considered by the Local Authority in whose area the child is being looked after unless a different arrangement was agreed in the contract. Nevertheless, a close watch should be kept by the Complaints Manager on these complaints and their handling and resolution monitored.
- 3.10.5 If necessary, the Care Quality Commission (CQC) of the Local Authority in whose area the child is being looked after should be informed by Shropshire Children's Services Directorate's staff and their assistance sought to retain an informed involvement. The links with the relevant CQC would be made through the CQC covering Shropshire. On completion, these complaints should be copied to the relevant Team/Unit Managers for collation and to a Complaints Officer for recording. Swift action may be necessary on occasions and should not be avoided.

### **3.11 Compensation Claims**

When a complainant requests compensation, a Complaints Officer will pass the claim to the Council's Risk and Insurance Team. The complaint is, therefore, considered as being withdrawn as it is dealt with by another procedure.

If the complaint involves other complaint issues not related to the claim these can be dealt with separately in accordance with the complaints procedure, if required by the complainant.

### **3.12 Complaints concerning Staff from other Agencies**

The complaint should be recorded and acknowledged in the normal way. The Complaints Officer will make arrangements for the complaint to be passed to the relevant person who has responsibility for managing Complaints in the other agency.

### **3.13 Complaints about the eligibility for a Service**

3.13.1 The outcome of an assessment for eligibility for receipt of a service will be notified to the person being assessed and/or their representative. The written notification will include a reference as to how s/he may complain if the outcome is that the person is not eligible for a service.

As an assessment has occurred this is regarded as a service in itself which is covered within the complaints procedure. Therefore, where a complaint is received, the complaint will be dealt with in accordance with the 3 stages described in Section 2.