



Social Services Complaints Policy

April 2019

INTRODUCTION

- 1.1 Caerphilly County Borough Council is committed to dealing effectively with any concerns or complaints about Social Services. In this document, the term 'complaint' refers to a concern, a representation or a complaint. Social Services refers to Caerphilly County Borough Council services provided within childrens' and adults' social care.
- 1.2 We aim to clarify any issues, we will apologise if we get something wrong, and where possible we will try to put things right. We will also set in place a process so that we learn from mistakes and use the information we gain to improve our service.
- 1.3 This policy has been established in accordance with The Social Services Complaints Procedure (Wales) Regulations 2014 and The Representations Procedure (Wales) Regulations 2014. These Regulations came into effect from 1st August 2014 and this policy has been introduced in April 2019 to demonstrate the practice of Caerphilly County Borough Council for handling complaints.
- 1.4 The above regulations are made under the Social Services & Well-being (Wales) Act 2014. They bring the complaints handling process for Social Services in line with the Welsh Government "Model Concerns and Complaints Policy and Guidance", and the NHS Complaints Procedure "Putting Things Right".
- 1.5 This Policy also encompasses the requirements of the Children Act 1989, the Adoption of Children Act 2002, and the Community Care Act 2014 and is issued in accordance with Section 7 of the Local Council Social Services Act 1970.
- 1.6 Based on the definition in the Model Concerns and Complaints Policy and Guidance a complaint is:
 - an expression of dissatisfaction or concern;
 - either written or spoken or made by any other communication method;
 - made by one or more members of the public;
 - about a public service provider's action or lack of action; or

OUR COMMITMENT

- 2.1 The Social Services Directorate (Social Services) aims to provide high quality services to eligible residents of Caerphilly.
- 2.2 There will be times when people using or wanting to use its services will want to make comments or complaints about the service they receive. When we receive a complaint, we will usually respond in the way we explain below.
- 2.3 We have developed our Social Services complaints policy to ensure we resolve complaints quickly and effectively.

- 2.4 We recognise that a robust complaints framework allows service users to become empowered. Outcomes from complaints are used by Social Services to ensure that lessons are learned where things have gone wrong, in order that continuous improvement can be made to service delivery.
- 2.5 We will deal with complaints in an open and honest way.
- 2.6 We will make sure that complainants' ongoing contact with the service, following resolution of a complaint, does not suffer detriment because they have expressed a concern, given feedback or made a complaint.
- 2.7 We will initially communicate with the complainant in the same way they have contacted us, unless they request we respond differently or we have good reason not to do so. However, we will always ask whether complainants prefer a different medium of contact. We will always ensure that the outcome of contact is followed up in writing. Where a complainant has contacted us by email, we will respond electronically unless we are instructed otherwise.

OFFICER ROLES

- 3.1 The statutory Director of Social Services has formal oversight of the complaints process and reports annually on complaints in the Director's Annual Complaints and Compliments Report.
- 3.2 The Authority must designate a Senior Officer responsible for ensuring compliance with the Authority's Social Services complaints and representations procedures. This function is designated to the Complaints and Information Team Manager.
- 3.3 The Authority also has Social Services Complaints and Information Officers, responsible for managing the procedures for handling and considering complaints and representations.
- 3.4 The specific roles and duties of these officers are set out in the Welsh Government guidance document "A guide to handling complaints and representations by local authority social services" (2014).

SERVICE REQUESTS

- 4.1 If a person is approaching the council for a service for the first time, this will be classified as a service request. In such cases this policy will not apply.

WHEN TO USE THIS POLICY: WHO CAN COMPLAIN

- 5.1 This policy applies to both adults and childrens social care. A person may be eligible to make a complaint about Social Services under the policy, If they:
- 5.1.1 Have received (or were entitled to receive) a service from Social Services
 - 5.1.2 Have suffered due to the inappropriate actions of Social Services.
 - 5.1.3 A complaint may be brought forward in respect of a child (i.e. a person under the age of 18):
 - (a) By a child who is in receipt of care and support.
 - (b) By a parent of such a child.
 - (c) By a person with parental responsibility for such a child.
 - (d) By a local authority foster carer.
 - (e) Where the Council considers that the complainant has a sufficient interest in a child's welfare to warrant it considering their representations.
- 5.2 A complaint may be brought forward in respect of an adult who lacks capacity, providing the individual making the complaint is acting in the best interests of the person receiving services (who lacks capacity), or has lasting power of attorney to act on their behalf.
- 5.3 If a person is unable to make a complaint or representation themselves, they can authorise someone to make a complaint on their behalf.
- 5.4 Children in need of care and support, looked after children and care leavers and those without capacity or with people who can act in their best interests, have a right to receive assistance from an independent advocate to assist them when making a complaint. In these circumstances, we will therefore provide an advocate if asked to do so.
- 5.5 A representative may make a complaint on another person's behalf where that person:
- Is a child; or
 - Has requested the representative to act for them; or
 - Lacks capacity to make their own complaint; or
 - Has died
- 5.6 Any representative making a complaint on another person's behalf without their expressed permission must be considered to have sufficient interest in that person's welfare and be a suitable person. The Complaints and Information Team Manager will determine the eligibility of a complainant in such circumstances.
- 5.7 If an individual intends expressing a concern on behalf of another person who satisfies the criteria set out in paragraph 5.1, we may require confirmation of their agreement to that person acting on their behalf. Should that person not be

eligible to make a complaint under the terms of this policy, they may still be able to make a complaint under our Corporate Comments, Complaints and Compliments procedure

- 5.8 Normally, we will only be able to look at complaints if we are told about them within 12 months. This is because it is better to look into complaints while the issues are still fresh in everyone's mind.
- 5.9 In exceptional circumstances the Council may be able to look at concerns which are brought to our attention later than this. However, we will need strong reasons why the matter has not been brought to our attention earlier and we will need to have sufficient information about the issue to allow us to consider it properly.
- 5.10 There may be reasons why the council will not, or cannot consider a complaint under this policy (e.g. if there are current court proceedings, Care Inspectorate Wales or police investigations in relation to those matters, or if the complaint identifies a safeguarding issue). If this is the case, the Complaints and Information Officer will explain why the complaint cannot be considered and confirm the decision in writing.
- 5.11 Furthermore, a complaint cannot be made under this policy where:
- a) The complaint relates to a matter that has previously been investigated under this or the former complaints procedure;
 - b) The complaint is being or has already been investigated by the Public Services Ombudsman for Wales;
 - c) The matter relates to a Freedom of Information request or Data Protection issue;
 - d) The complaint has been made orally, and resolved to the satisfaction of the person making the complaint by the end of the next working day following.

For additional information please see: <https://www.caerphilly.gov.uk/My-Council/Data-protection-and-freedom-of-information/Questions-and-complaints>

HOW TO COMPLAIN

6.1 Complaints can be made in any of the ways below:

- By contacting the Complaints and Information Team by Freephone on: 0800 328 4061
- Via our website at www.caerphilly.gov.uk/complaints-and-feedback
- By e-mail at sscomplaintsandinformation@caerphilly.gov.uk

➤ In person by appointment (use free phone number)

➤ In writing, at the following address:
The Complaints and Information Team
Social Services
Penallta House
Tredomen Park
Hengoed
Caerphilly
CF82 7PG

6.2 We aim to have complaint information available at all of our service outlets and public areas and also at appropriate locations in the community (e.g. libraries and housing offices).

6.3 Copies of this policy and the complaint form can be made available in other formats if required (e.g. audio, large print etc).

6.4 We ask complainants' to let us know if they have any special requirements with regard to corresponding with the Directorate. We then ask the complainant to us know if:

- Communication is preferred in Welsh or any other language rather than English.
- A specific font size is required when receiving written communication.
- If they are dyslexic and use a specific I.T. package.

STAGE 1 OF THE COMPLAINTS PROCESS – LOCAL RESOLUTION

7.1 If possible, we believe it's best to deal with things straight away rather than try to sort them out later. Ideally, complainants should raise their complaint with the person they are dealing with. He or she will try to resolve it there and then, often matters can be resolved during a face to face meeting.

7.2 If we are unable to resolve a complaint as outlined in 7.1 above, we will acknowledge the complaint within 2 working days of receipt of the complaint and tell the complainant who we have asked to look into the matter. Details of our complaints procedure will be enclosed with the acknowledgement. We will also offer advice and guidance on the complaints process if this is required.

7.3 We will set out our understanding of the complainant's concerns and ask them to confirm that we have got it right. We will also ask them to tell us what outcome they are hoping for.

- 7.4 We will offer the complainant a discussion with a Social Services Officer or the Complaints and Information Officer (as appropriate). Should such a discussion be required, arrangements will be made for this to take place within 10 working days of the date of acknowledgement.
- 7.5 In the case of a Representation, arrangements will be made for any required discussion to take place within 10 working days of the complaint start date as defined in Regulation 17(4) of The Representations Procedure (Wales) Regulations 2014.
- 7.6 When the complaint has been investigated and we feel we have a resolution, we will provide a substantive response to the complainant in writing within 5 working days of the date of meeting or 10 working days from date of complaint acknowledgement if meeting not required.
- 7.7 If it is not possible to provide the complainant with a response within the timescales set out in 7.4 to 7.6 above, we will contact the complainant to discuss the reason for the delay. Should this be the case, we will seek agreement from the complainant for an extension of the timescale.
- 7.8 Occasionally, we might suggest mediation or another method to try to resolve disputes. It is hoped that all concerns can be resolved by Social Services without a need for further action.

STAGE 2 OF THE COMPLAINTS PROCESS – FORMAL INVESTIGATIONS

- 8.1 If a complaint has been considered at the first stage of the complaints process and the complainant remains aggrieved with the outcome, they may ask for the complaint to be investigated by a person who is independent of the Council.
- 8.2 We will compile a formal written record of the complaint (as we understand it) within 5 working days of the date it is received.
- 8.3 We will commission someone from outside the council to conduct the investigation. This person is referred to as an Independent Investigator and we will let you know their details.
- 8.4 The Independent Investigator will interview all relevant parties and produce a report of their findings which will be provided to the person making the complaint and principal parties to the complaint.
- 8.5 In the case of a child, at this stage an Independent Person is also appointed to take part in the formal consideration and any discussion about the action the Council should take (in accordance with Children's Act 1989). The Independent Person's role is to oversee the handling of the complaint. This person may be an employee of the Council but must not be associated with Social Services in any way.

- 8.6 Before the investigation starts, the complainant will be required to confirm that our understanding of the issues to be investigated is comprehensive and correct. They will also be asked to specify (or confirm) their required outcomes from the investigation. If these issues have not been clearly set out in our summary of the complaint, the complainant will need to speak to the Complaints and Information Officer to clarify matters.
- 8.7 The date on which the content of the complaint is agreed with the complainant and confirmed with the Independent Investigator will be the start date of the complaint.
- 8.8 As a consequence of this report the statutory Director of Social Services will provide the complainant with a written response to the report which will include their summary, stating whether or not the complaint is upheld. The response will provide details of any action to be taken, together with an apology where appropriate. The response will also explain the complainant's right to go to the Public Services Ombudsman for Wales should they remain dissatisfied.
- 8.9 The complainant will be offered an opportunity to discuss the investigator's report and our response, and this discussion will normally be with the Complaints and Information Team Manager.
- 8.10 A response to a Stage 2 complaint should be issued within 25 working days of the start date. If this is not possible, we will inform the complainant and explain why, giving an indication when they can expect to receive a response. In any event, a response to a complaint must be provided within 6 months.
- 8.11 Whilst it is recommended that a complainant tries to resolve their complaint informally, at first, they have the right to ask for a complaint to be considered at this stage from the outset.

OUTCOMES OF INVESTIGATION

- 9.1 Following the investigation of a complaint, we will let the complainant know the outcome of the investigation using their preferred form of communication (e.g. by letter or email). We will explain how and why we came to our conclusions.
- 9.2 If we find that we got it wrong, we will explain what errors were made and how it happened. In complex cases, we may invite the complainant to attend a further meeting to discuss the outcomes and future actions.
- 9.3 If we find there is a fault in our systems or the way we do things, we will explain what it is and how we plan to change things to stop it happening again. If we got it wrong, we will always apologise.

PUTTING THINGS RIGHT - WHEN WE GET THINGS WRONG

- 10.1 If we didn't provide a service that should have been given, we will aim to provide it if that's possible. If we didn't do something well, we will aim to put it right. If a person has lost out as a result of a mistake on our part we will try to put them back in the position they would have been in if we had got it right.
- 10.2 If a person had to pay for a service themselves when they should have received that service from us, or if they were entitled to funding they did not receive, we will usually aim to make good what they have lost.

LEARNING LESSONS

- 11.1 We take complaints seriously and try to learn from any mistakes we have made. Information on complaints is used to monitor the local authority's compliance with the regulations, improve its service delivery and increase its effectiveness. Details of lessons learned from complaints are also included in the Annual Complaints and Compliments Report which is produced for the statutory Director of Social Services.
- 11.2 Where there is a need for change, we will develop an action plan setting out what we will do, who will do it and when we plan to do it by. If it is appropriate, we will let complainants know when the changes we have promised to make have been implemented.

CONFIDENTIALITY

- 12.1 Should a complainant request sight of any part of the complaint investigation, such a request will be dealt with in accordance with Data Protection legislation. Written information on complaints is kept separately from care management records.
- 12.2 If you request an investigation, an Investigating Officer will need to look at the personal data contained in care management records for the scope of the complaint.
- 12.3 All council staff, including those commissioned for a specific piece of work, are bound by the rules of confidentiality.
- 12.4 Information gathered and processed during the complaint procedure will only be shared with parties subject to, directly involved with or who have a professional interest in the outcome of the complaint.

CONCURRENT INVESTIGATIONS

- 13.1 Where other investigations are in progress/under consideration in relation to issues raised by the complainant (e.g. court matters, Care Inspectorate Wales/police investigations, disciplinary or other legal proceedings), no concurrent investigation will be undertaken in line with this policy where such an investigation would prejudice the conduct of those proceedings/investigations.
- 13.2 No complaint investigation will be made under this policy where it is considered that such action may compromise any adult or child protection process. Complainants will be informed if the complaint is being treated as a safeguarding issue.
- 13.3 Should this occur, we will notify the complainant in writing to explain why and invite them to re-submit their complaint within 6 months of those other matters being concluded.

WHAT IF THERE IS MORE THAN ONE PUBLIC BODY INVOLVED

- 14.1 If a complaint covers more than one body (e.g. if the complaint is about both the Council and the Health Board) we will usually work with them to decide who should take a lead in dealing with the matter. In such cases, the name of the person responsible for communicating with the complainant will be provided.
- 14.2 If the complaint is about a body working on our behalf (e.g. agency care workers, private residential homes) the matter may be raised informally with, and dealt by, that body first. However, if the complainant wants to complain formally to the Council where the Council has commissioned this service, we will look into this and respond.

DEFERRING OR FREEZING DECISIONS

- 15.1 If a complaint is about a proposed change to a care plan, a placement or a service, the Council may consider deferring or freezing the decision until the complaint is resolved.
- 15.2 Decisions to defer / freeze such changes will normally be made following discussion between the Complaints and Information Team Manager and Social Services.
- 15.3 Should it be required, the decision of the statutory Director of Social Services on such matters will be final.

PUBLIC SERVICES OMBUDSMAN FOR WALES

- 16.1 If we do not succeed in resolving a complaint, the complainant may refer the matter to the Public Services Ombudsman for Wales. The Ombudsman is independent of all government bodies and can look into complaints where the complainant or service user –
- a) has been treated unfairly or received a poor service through some failure on the part of the body providing it
 - b) has been disadvantaged personally by a service failure or has been treated unfairly.
- 16.2 The Ombudsman expects complainants to bring concerns to our attention first and to give us an opportunity to put things right.
- 16.3 The Ombudsman can be contacted in the following ways:
- By e-mail: ask@ombudsman-wales.org.uk
 - Via the Ombudsman website: www.ombudsman-wales.org.uk
 - In writing, or by telephone, at:
Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ
Tel: 0300 790 0203
- 16.4 There are also other organisations that consider complaints. For example, the Welsh Language Commissioner can deal with issues about services in Welsh. We can provide advice about such organisations.

WHAT IF A COMPLAINT IS WITHDRAWN

- 17.1 A complainant may withdraw a complaint at any time. If this happens we will write to the complainant to confirm their withdrawal of the complaint, however we may decide to continue with our investigations if we deem such action is necessary.

WHAT IF A COMPLAINANT NEEDS HELP

- 18.1 Our staff will aim to help complainants to make their concerns known to us. If extra assistance is needed, we will try to put complainants in touch with someone who can help.

Older People

18.2 Age Cymru provides advice for all older people in Wales. They can be contacted in any of the ways below:

- Using their Online Form: <http://www.ageuk.org.uk/cymru/contact-us/>
- Via the Age Cymru website: <http://www.ageuk.org.uk/cymru/>
- In writing, or by telephone, at:
Age Cymru
Tŷ John Pathy
3/14 Neptune Court
Vanguard Way
Cardiff
CF24 5PJ
Tel: 0300 790 0203

Children and young people

18.3 This policy includes complaints made by people under the age of 18. If a young person wishing to complain needs help, they can speak to someone on the Meic Helpline (phone 080880 23456, www.meiccymru.org).

18.3.1 They can also contact the Children's Commissioner for Wales:

- By email, at: post@childcomwales.org.uk
- In writing, or by telephone, as shown below:

South Wales Office:

Oystermouth House
Phoenix Way
Llansamlet
Swansea SA7 9FS
Tel: 01792 765600

North Wales Office:

Penrhos Manor
Oak Drive
Colwyn Bay
Conwy LL29 7YW
Tel: 01492 523333

18.3.2 Advocacy services for children and young people can also be provided by NYAS, who can be contacted in the following ways:

- Freephone: 0808 808 1001
- Email: help@nyas.net
- Via the website: <https://www.nyas.net/contact-us/>

WHAT WE EXPECT FROM COMPLAINANTS

19.1 In times of trouble or distress, some people may act out of character. There may have been upsetting or distressing circumstances leading up to a concern or a complaint. We do not view behaviour as unacceptable just because someone is forceful or determined.

19.2 We believe that all complainants have the right to be heard, understood and respected. However, we expect complainants to be polite and courteous in their dealings with us. We will not tolerate aggressive or abusive behaviour, unreasonable demands or unreasonable persistence.

19.3 We have a separate policy to manage situations where we find that someone's actions are unacceptable. Our policy and procedure for dealing with unacceptable persistent or unreasonable actions by complainants can be found at: <https://www.caerphilly.gov.uk/CaerphillyDocs/>