

Monmouthshire County Council

Social Care and Health



Complaints Policy

August 2014

Summary of the new Social Services Complaints procedure

The new complaints regulations came into force on 1 August 2014. The Regulations introduce a new two stage process to deal with complaints about local authority social services. It brings the process for social services in line with the *Model Concerns and Complaints Policy and Guidance* and the NHS Complaints Procedure *Putting Things Right*.

The major difference between the previous procedures and these new arrangements is the removal of the independent panel stage.

The new procedure focuses on an initial Local Resolution stage where all those who raise a complaint are offered a discussion to resolve the matter. The second formal stage provides for clear independent involvement. If issues have not been resolved by the local authority within the two stage process, individuals will have recourse to the Public Services Ombudsman for Wales.

Stage 1 – Local Resolution

We will acknowledge complaints within 2 working days of receipt of it. We have 10 working days to resolve the complaint. We will provide a substantive response to the complainant in writing within a further 5 working days of the date of resolution.

Stage 2 – Formal Investigation

We must appoint someone who is independent of the local authority to investigate the complaint. When the content of the complaint is agreed by both the Council and the complainant, we have 25 working days to investigate and respond to the complaint.

Public Services Ombudsman for Wales

If we do not succeed in resolving a complaint, the complainant may refer the matter to the Ombudsman. The Ombudsman is independent of all government bodies and can look into complaints where the complainant remains dissatisfied.

Learning from complaints

We are committed to learning from complaints and rectify any mistakes we make.

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Section 1: Introduction

- 1.1 Monmouthshire County 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.
- 1.2 We aim to clarify any issues about which service users or complainants are not sure. We will aim to provide any service to which you are entitled but where we have failed to deliver. We will apologise if we get something wrong, and where possible try to put things right. We also aim to learn from our mistakes and use the information we gain to improve our services.

Statutory Basis

- 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. This policy takes effect from **1 August 2014**.
- 1.4 The above regulations are made under the Social Services and 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, the Community Care Act 2014 and is issued in accordance with Section 7 of the Local Council Social Services Act 1970.

Section 2: Our Commitment

- 2.1 We aim to provide high quality services to eligible residents of Monmouthshire.
- 2.2 There will be times when people using or wanting to use our 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 delivering services.
- 2.5 We will deal with complaints in an open and honest way.
- 2.6 We will make sure that complainants' dealings with us in the future do not suffer just because they have expressed a concern or made a complaint.

- 2.7 We will normally 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. Where a complainant has contacted us by email, we will assume an implied consent to respond electronically unless we are instructed otherwise.

Section 3: Service Requests

- 3.1 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.

Section 4: What is a complaint?

- 4.1 An expression of dissatisfaction or concern that requires a response. It may be

- 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
- About the standard of service provided.

- 4.2 **A complaint is not:**

- An initial request for a service
- A formal review or appeal against a decision or determination, the procedure for which is set out in legislation or regulations
- A means to seek change to legislation or a "properly made" policy decision
- A means for lobbying groups to seek to promote a cause.

- 4.3 There may be reasons why we will not, or cannot consider a complaint under this policy (e.g. if there are court proceedings in relation to those matters, or if the complaint identifies a safeguarding issue). If this is the case, the Customer Relations Manager will explain why the complaints cannot be considered and confirm the decision in writing.

- 4.4 A complaint cannot be made under this policy where:

- 4.4.1 The complaint relates to a matter that has previously been investigated under this or the former complaints procedure;

- 4.4.2 The complaint is being or has been investigated by the Public Services Ombudsman for Wales;

- 4.4.3 The matter relates to a Freedom of Information or Data Protection issue;

- 4.4.4 The complaint has previously been made orally, and resolved to the satisfaction of the person making the complaint, by the end of the working day following the day on which the complaint was made.

Section 5: Who can complain?

- 5.1 This policy applies to both adults and children's services. A person may be eligible to make a complaint about Social Services under this policy, if they:
- 5.1.1 Have received (or were entitled to receive) a service from Social Services (eg: a care leaver)
 - 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 (ie: a person under the age of 18):
 - (a) By a child either being looked after by Social Services, or not being looked after by them but is in need
 - (b) By a parent of such a child
 - (c) By a person with parental responsibility for such a child
 - (d) By a local Council 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 If a person is unable to make a complaint themselves, they can authorise someone to make a complaint on their behalf.
- 5.3 Children in need, looked after children and care leavers have a right to receive assistance from an independent advocate to assist them when making a complaint. In these circumstances, we will provide an advocate if asked to do so.
- 5.4 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.
- 5.5 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 Customer Relations Manager will determine the eligibility of a complainant.
- 5.6 If an individual intends expressing a concern on behalf of another person who satisfies the criteria set out in paragraph 4.1, we may require confirmation of their agreement to that person acting on their behalf.
- 5.7 Normally, we will only be able to look at complaints if we are told about them within 12 months. This is because it's better to look into complaints while the issues are still fresh in everyone's mind.
- 5.8 In exceptional circumstances we 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.

Section 6: Receiving a complaint

- 6.1 A complaint may be made up to 12 months after the date on which the matter which is the subject of a complaint or representation occurred.

Section 7: How to complain

- 7.1 Complaints can be made in any of the ways below:

7.1.1 By contacting the Customer Relations team by telephone on 01633 644647 / 01633 644672 or Freephone 0800 6524121

7.1.2 Via our website at www.monmouthshire.gov.uk

7.1.3 By e-mail at talk2us@monmouthshire.gov.uk for Adult Services complaints
listen tome@monmouthshire.gov.uk for Children Services complaints

- 7.1.4 In writing, at the following address:

Customer Relations Manager
Monmouthshire County Council
PO Box 106
CALDICOT
NP26 9AN

7.2 We aim to have complaint information available at all of our service outlets and public areas and also at appropriate locations in the community (eg. leisure centres, GP surgeries).

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

Section 8: Stage 1 - 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.

7.2 If we are unable to resolve a complaint immediately, we will acknowledge the complaint within 2 working days of receipt of it and tell the complainant who we have asked to look into the matter. Our complaints leaflet explaining the complaints procedure will be enclosed with the acknowledgement.

- 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 the relevant person. 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 resolved, we will provide a substantive response to the complainant in writing within 5 working days of the date of resolution.
- 7.7 If it is not possible to provide the complainant with a response within the timescales set out in 7.4 or 7.5 above, we will contact the complainant to discuss the reason for the delay.
- 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.

Section 9: Stage 2 - Formal Investigation

- 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 commission someone from outside the Council to conduct the investigation. This person is referred to as an Independent Investigator.
- 8.3 The Independent Investigator will interview all parties and produce a report of their findings which will be provided to the person making the complaint and principal parties to the complaint. As a consequence of this report the Director of Social Services will provide the complainant with a written response to the report which will include their summary and details of any action to be taken.
- 8.4 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 the Children 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.
- 8.5 We will compile a formal written record of the complaint (as we understand it) within 5 working days of the date it is received.

- 8.6 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 Customer Relations manager to clarify matters.
- 8.7 The date on which the content of the complaint is agreed by both the council and the complainant will be the start date for the complaint.
- 8.8 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.
- 8.9 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.

Section 10 - Outcomes of investigations

- 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 (eg. by letter or email). If necessary, we will produce a longer report. 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.
- 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.

Section 11 - 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.

Section 12 - Learning lessons

- 11.1 We take complaints seriously and try to learn from any mistakes we have made. Our senior management team considers a periodic summary of all complaints. Details of lessons learned from complaints are also included in the Annual Report.
- 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.

Section 13 - Confidentiality

- 12.1 All complaint information is confidential, subject to the Data Protection Act; written information on complaints is kept separately from care management records.
- 12.2 Requesting an investigation gives permission for the Investigating Officer 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 complaints will be handled in accordance with the council's Data Protection policy. It will only be shared with parties subject to, directly involved with or who have a professional interest in the outcome of the complaint.

Section 14 - Concurrent investigations

- 13.1 Where other investigations are in progress / under consideration in relation to issues raised by the complainant (e.g. court matters, police investigations, disciplinary or other legal proceedings), no investigation will be undertaken in line with this policy.
- 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, and the complainant 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 and invite them to re-submit their complaint when those other matters are concluded.

Section 15 - What if there is more than one public body involved?

- 14.1 If a complaint covers more than one body (eg. if the complaint is about both the council and 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 complaint formally, we will look into this ourselves and respond.

Section 16 - 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 Customer Relations manager and relevant Social Services manager, and each case will be considered on its own merit.
- 15.3 Should it be required, the decision of the Director of Social Services on such matters will be final.

Section 17 - 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 -
- (i) has been treated unfairly or received a bad service through some failure on the part of the body providing it
 - (ii) 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.

Section 18 - What if a complainant needs help?

17.1 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.

17.2 Older People

17.2.1 Age Cymru provides advice for all older people in Wales. They can be contacted 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 Gwent
12 Baneswell Road
NEWPORT NP20 4BP
Tel: 01633 763330

17.3 Children & Young People

17.3.1 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).

17.3.2 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

17.3.3 Advocacy services for children & young people can also be provided by Action for Children, who can be contacted in the following ways:

By email: ask.us@actionforchildren.org.uk

In writing:

Action for Children Wales,
St David's Court,
68a Cowbridge Road East,
CARDIFF CF11 9DN

Tel: 029 2922 2127

Section 19 - What we expect from complainants

- 18.1 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.
- 18.2 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.
- 18.3 We have a separate policy to manage situations where we find that someone's actions are unacceptable. These are detailed in our Unacceptable Actions by Complainants policy.

Section 20 - Staff

- 19.1 While it's not uncommon for people to look for someone to blame when things go wrong, staff should be assured that this is not the aim of an investigation. It should be made clear that any interview that may take place is to establish facts as part of the investigation of a complaint, and that it does not form part of a disciplinary procedure. (However, a separate disciplinary process could take place if this appropriate).
- 19.2 When requiring staff to attend for interview, they should be told the purpose of the interview, what to expect and what preparation they need to do. They should be advised that they can bring someone (such as a colleague) for support – although the position of confidentiality and their role should be made clear). They should also be advised as to what will happen after the interview.
- 19.3 Being the subject of a complaint is in any event a stressful situation and depending on the circumstances of the complaint and the issues involved, it may be prudent to inform the interviewee of staff support/counselling available.
- 19.4 In the same way that it is important to keep complainants informed on progress in the investigation and its outcome, the same is true in respect of staff.

Guidance for staff involved in a complaint

- 19.5 Monmouthshire County Council value its staff and recognise their commitment to providing quality services for the public. However, on occasions members of the public may express their dissatisfaction with a member of staff or the services that we provide.
- 19.6 The rights of individuals to complain are clear, however the rights of staff to equally fair treatment are also implied. The procedure does not provide a means of placing one person's rights above those of another.

- 19.7 Complaints about staff have a direct effect upon the individual and may lead to feelings of anxiety and insecurity or fear of reprisals. These feelings can result in staff becoming stressed, demotivated or even ill. It is important that staff feel supported and recognise that in most cases complaints will focus on the department or services and not the individual, who was acting on behalf of the department.
- 19.8 The investigation will focus on the quality or nature of the service provided or whether or not the Council's appropriate procedures have been followed.

What you can expect

- 19.9 The complaints procedure is not a disciplinary procedure. It is there to try and solve problems and improve the quality of services we provide. It is not there to blame or victimise staff.
- 19.10 The majority of complaints will be dealt with locally. This means that your manager or another manager within the directorate will look into them. They will try and resolve the complaint to the complainant's satisfaction and may need to clarify issues with you about your involvement. On occasions however, the complainant may not be satisfied and wish to take their complaint to the second stage of the complaints procedure (formal investigation).
- 19.11 At the second stage of the complaints procedure an investigating officer will be appointed. The investigating officer is either someone who does not work for the Council or have any management responsibility for staff involved in the complaint. Where complaints are made by or on behalf of a child or young person an independent person will also be appointed to ensure the complaint is investigated appropriately and that the procedures are followed as set out in the relevant legislation.
- 19.12 All documents and records relating to the complaint will be treated confidentially and will not be held on the staff member's personal file.
- 19.13 The investigating officer will:
- clarify the details of the complaint with the complainant and establish the desired outcome/solution
 - identify the relevant legal and administrative policies
 - interview you and other appropriate staff involved in the complaint eg, your line manager.
- 19.14 At the beginning of the interview with you, the investigating officer will establish that you are fully aware of the nature of the complaint. Following the interview the investigating officer will prepare a draft statement detailing what has been said which you should verify and sign.
- 19.15 The investigating officer will then prepare a report for the department. You will be notified of the outcome/recommendations of the complaint via your line manager.

Your rights in the process are:

- to know that a complaint has been made about you
- to see a copy of the written complaint which you should receive prior to any interview
- to prepare for the interview whilst bearing in mind complaints have to be investigated within a tight schedule – 10 working days for stage 1 and 25 working days for stage 2.
- To have someone with you at the interview. This could be a colleague who is not involved in the complaint. You could also have a trades union officer, although they should be there to provide support and not in a representative capacity.
- To have an estimate of the length of time of the interview. You can ask for a break or for the interview to be reconvened if it runs over time.
- To know how your statements have been recorded. If you feel what is recorded is factually incorrect or inaccurate you can request that it be amended.
- For your opinion to be recorded.
- To be treated respectfully, neutrally and in a non-judgemental manner.

19.16 It is important to us that staff involved in complaints feel supported and that they are fully aware of the complaints procedures.

Prepare yourself:

19.17 When you are told that a complaint has been received about something that involves you and is being investigated as part of the complaints process, you should:

- Try to remain as objective as possible, even though this may be difficult
- Be co-operative in re-arranging work schedules to attend interviews with the investigating officer. They work to very tight timescales and the investigation is a priority.
- Consider having a peer supporter with you. You could ask a colleague but you should not ask your manager.
- Your peer supporter should not act as your advocate and should not speak for you in relation to the complaint.
- Prepare for the interview by reading any notes about the complaint, operational instructions, relevant procedures – whatever is relevant. The investigating officer will also have done so.

- Take relevant records with you to the interview. They will refresh your memory and give you confidence and ensure that the interview is conducted efficiently.
- Be honest and volunteer information that will help with the investigation.
- Remember that the user who has made the complaint will have access to the investigation report; this may include what you have said.
- If you feel you have made a mistake, say so; try not to be too defensive.
- If you feel you are being unfairly criticised, say so.
- Try to use the interview as an opportunity to reflect on your practice and see where you could have done something better. Investigators are well aware that when we look back on our work we can all see how it could have been improved. They are not seeking to catch you out, but complaints are an opportunity to improve practice.
- Bear in mind that some complaints are the result of unclear procedures or lack of resources and not about staff failures.

Following the interview

- Allow yourself time to reflect
- Do not express resentment to the person who made the complaint – they may not have found it easy to complain and they may be fearful that their complaint will affect the service they receive
- Ask yourself why the person complained. Did they feel unable to approach you with their dissatisfaction? Had they tried and you had not listened?

If the complaint was about you personally, your line manager will discuss the outcome of the investigation with you.

Grievance and Disciplinary Procedures

- The Council's Complaints procedure will be kept clearly separated from both the Grievance procedures and disciplinary procedures. Grievance procedures concern staff issues, ie conditions of service, management and support. Disciplinary procedures apply to the action of staff in relation to failure to comply with codes of conduct, job description, practice instructions and procedures.
- During the course of an investigation, it may become apparent that misconduct appears to have occurred and therefore separate action under the Disciplinary procedures may be required.

- Senior managers will discuss and agree the appropriate course of action with the appropriate manager responsible for disciplinary matters. If disciplinary action is to be taken the Customer Relations Manager would need to consider whether the complaints procedure should be temporarily suspended pending the outcome of the disciplinary procedure.

Whistleblowing Policy

- The Council is committed to tackling malpractice and wrongdoing. Any serious concerns that staff have about the conduct of members or officers of the Council, or agents or contractors of the Council, or about service provision, should be reported under this policy.

Examples of the above matters, which may occur in the workplace, would include ill treatment of a service user; abuse of power for any unauthorised purpose or for personal gain; showing undue favour over a contractual matter or to a job applicant.

- The disclosure must be made in good faith and not for personal gain. You must reasonably believe that the information, and any allegation contained in it, are substantially true.