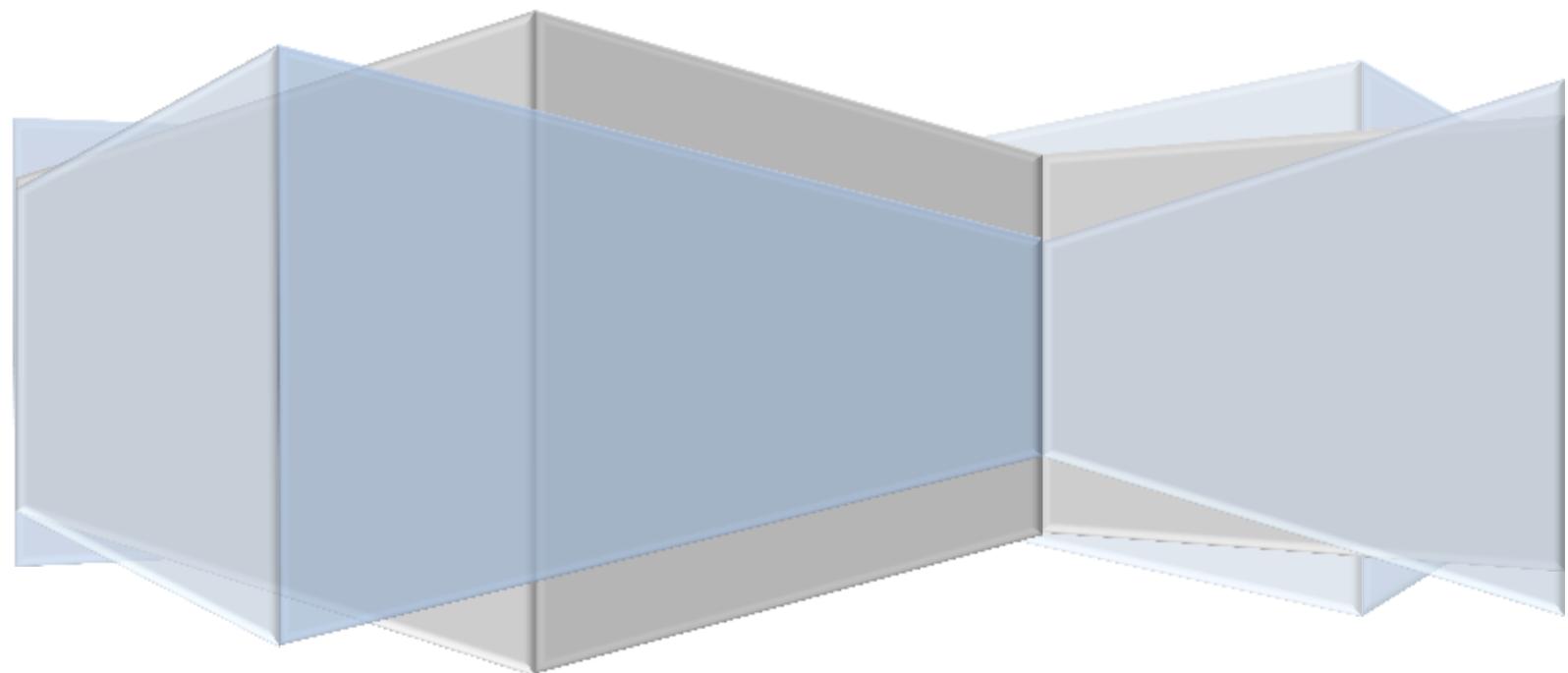


London Borough Bromley

PROCEDURAL GUIDANCE TO HANDLING COMPLAINTS IN BROMLEY

Revised December 2016



CONTENTS

SECTION A	GENERAL	3
	Purpose	3
	Process	4
	Principles	5
	Legislative Framework	5
	Definition of Roles	6
	What is a complaint?	6
	What is <u>not</u> a complaint?	6
	Who may complain?	8
	Receiving and assessing a complaint	9
	Stage 1: Local Resolution and Review	10
	Stage 2: Referral to the Local Government Ombudsman (LGO)	10
	Ombudsman enquiries	10
	Time limit for making a complaint	11
	Complaints involving other agencies or contractors	12
	Complaints about schools	12
	Complaints against a councillor	12
	MP or member enquiries	12
	Advocacy and support	13
	Record management and data protection (access to records)	13
	Subject access requests	14
	Compliments	14
SECTION B	STATUTORY COMPLAINTS PROCEDURE: ADULT SOCIAL CARE	16
	General	16
	Stage 1 – Local Resolution	16
	Stage 2 – Referral to the Local Government Ombudsman (LGO)	17
	Disputing the outcome of adult social care assessments or reviews	17

Joint complaints about health and social care	18
Complaints against mental health services	20
Complaints about care providers	20
Adult safeguarding	22
SECTION C STATUTORY COMPLAINTS PROCEDURE: CHILDREN’S SOCIAL CARE	23
General	23
When to use this procedure	23
Exemptions from the statutory complaints procedure	24
Who may complain?	25
Timescales	26
Stage 1 – Local resolution	26
Stage 2 – Investigation	27
Stage 3 – Review panel	30
Child protection and child protection conferences	32
Court orders	33
Advocacy and support	33
SECTION D GOOD PRACTICE GUIDANCE ON HANDLING COMPLAINTS	34
Receiving a complaint	34
Responding to a complaint	34
Closing a complaint	35
Learning from a complaint and implementing changes	36
SECTION E APPENDICES	37
Appendix 1: Exclusions to this complaints procedure	37
Appendix 2: Appealing against the outcome of a financial assessment	38
Appendix 3: Housing appeals process	39
Appendix 4: Dealing with unacceptable complaints	41

SECTION A: GENERAL

PURPOSE

This guidance supports our commitment to high standards in the management of complaints, which is fundamental in providing individuals with an efficient, effective and consistent response. We want to give our service users a fair, consistent and structured process to get a remedy for failures in the delivery of our services.

The purpose of this document is to provide general guidance on how to deal with complaints which are made against Bromley Council, where it has not been possible to resolve matters informally. It applies to services managed or commissioned by Council departments:

- **Education, Care and Health Services** – includes social care, education, housing and public health;
- **Environmental and Community Services** – includes services such as parking, trading standards, waste services, planning, libraries and leisure services;
- **Chief Executive's** – includes customer services, procurement, revenue and benefits.

It will apply both to services we provide and to those where we have a responsibility, such as contracted services.

This guidance also provides information on how to deal with complaints about social care, which are covered by statutory complaints regulations:

Complaints relating to adults care services, as defined by the Local Authority Social Services and National Health Services Complaints (England) Regulations 2009, will follow a two-stage statutory process. This is set out in [Section B](#).

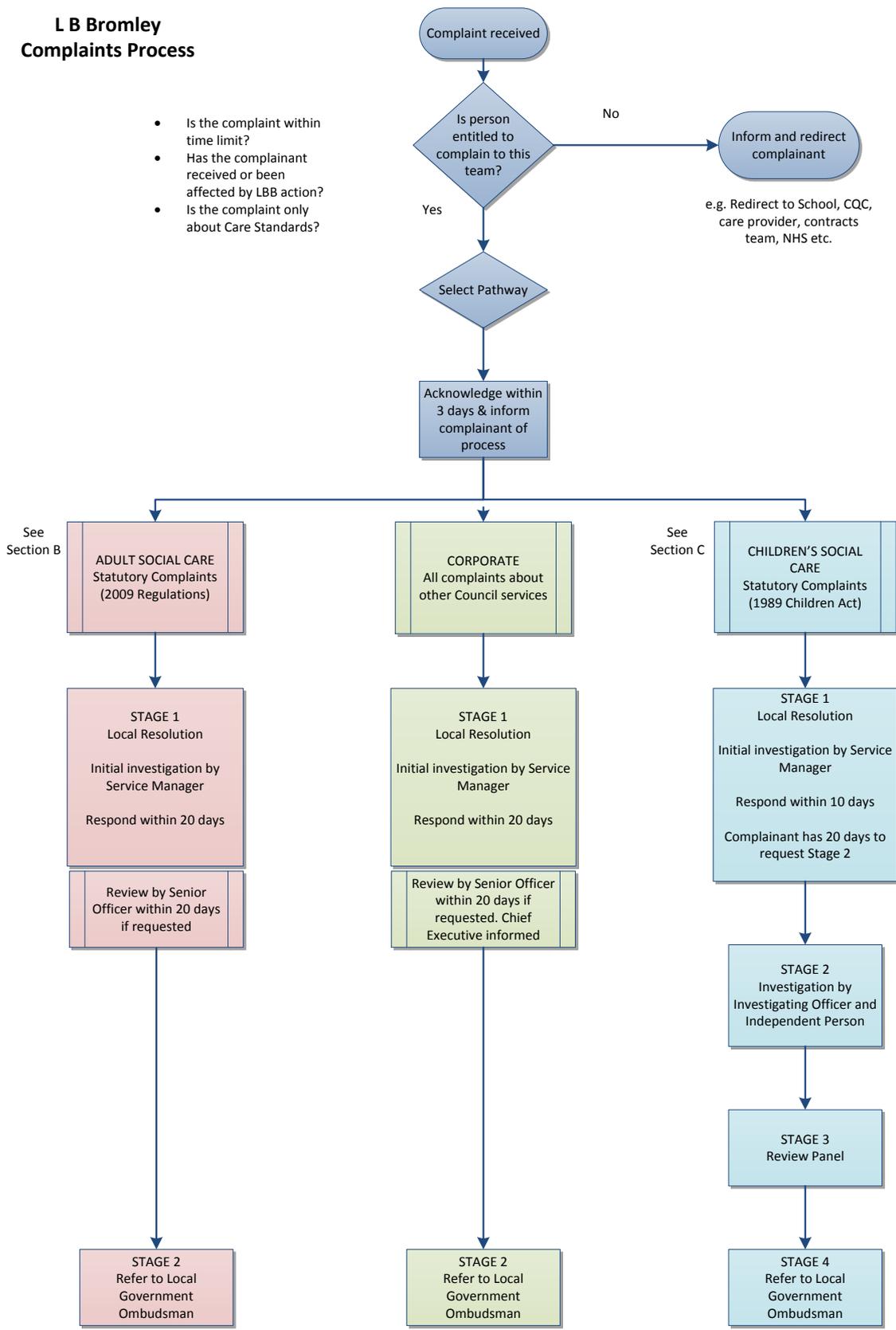
Complaints relating to children's social care, as defined by the Children Act 1989 Representation Procedure (England) Regulations 2006, will follow a four-stage statutory process, which includes access to a Review Panel. This is set out in [Section C](#).

For all other complaints, the Corporate Complaints Procedure will apply. This is set out later in this [section](#).

BROMLEY'S COMPLAINTS PROCESS

L B Bromley Complaints Process

- Is the complaint within time limit?
- Has the complainant received or been affected by LBB action?
- Is the complaint only about Care Standards?



PRINCIPLES

The fundamental principles of an effective complaints process are to:

- Place the complainant at the centre of the process and be flexible, transparent, proportionate, resolution focussed and, above all, remain impartial at all times.
- Follow Bromley Council's Customer Service Standards, as detailed in Bromley's Customer Service Staff Handbook. An electronic copy of the handbook is available on [OneBromley](#).
- Resolve complaints promptly, as close to the point of delivery as possible, ensuring responses are honest and evidence based. Explain the reasons for decisions, acknowledging mistakes and apologising where appropriate.
- Provide effective support, including guidance and advice about advocacy, conciliation or mediation services, where appropriate and/or when requested.
- Provide open and accessible information, ensuring those who complain have easy access to the service dealing with complaints.
- Provide the opportunity for learning and developing, ensuring complaints are viewed as a positive opportunity to learn from experience. To drive continual organisational improvement and prevent similar mistakes occurring in future.
- Keep complainants informed if responses are likely to be delayed.
- Ensure complaint responses are clear, address all points of the complaint, inform complainants of lessons that have been learnt and any changes the service intends to make as a result and, if possible, be clear which complaints have been upheld or not upheld by the service.
- Ensure equality of access and experience irrespective of age, disability, gender, sexual orientation, race, religion or belief.
- Say sorry if we have made a mistake or if something has gone wrong, and put it right as soon as possible.

LEGISLATIVE FRAMEWORK

As a public body the Council must abide by the statutes which direct how complaints should be managed. These differ according to service type.

- The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009
- The Health and Social Care (Community Health and Standards) Act 2003
- The NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012
- Health and Social Care (Community Health and Standards) Act 2003
- Children Act 1989 Representation Procedure (England) Regulations 2006 (the Regulations)
- Getting the Best from Complaints - Social Care Complaints and Representations for Children, Young People and Others
- Data Protection Act 1998

- Freedom of Information Act 2000
- The Local Government Act 1974
- The Care Act 2014

DEFINITION OF ROLES

The Complaints Team is responsible for managing all stages of the Council’s complaints procedures, as well as monitoring the actions which Care Services propose to take as a result of the lessons they have learnt from complaints. The role of the Complaint Service is to:

- Facilitate the complaints process;
- Acknowledge complaints and keep complainants updated on progress;
- Monitor timescales;
- Provide advice and guidance to managers on best practice in dealing with complaints;
- Quality assure complaint responses to ensure they are of a satisfactory standard;
- Provide training to officers in complaint handling;
- Gather complaint statistics and report on performance;
- Promote learning from complaints;
- Organise and administer the Stage 2 and Stage 3 processes of the Children’s Statutory, and Stage 2 of the Corporate complaints processes;
- Manage the Council’s relationship with the Local Government Ombudsman.

The Complaints Team does not write complaint responses; this is the responsibility of the assigned investigating officer. The Team will, however, provide support and guidance to officers and will ensure responses are of a satisfactory standard.

Service Managers are responsible for investigating complaints about their service and responding to the complainant. Responses should be sent to the Complaints Team for quality assurance checking prior to sending to the complainant. Responses need to be sufficiently robust to meet any challenges from the LGO. A good practice guide is set out in [Section D](#).

WHAT IS A COMPLAINT?

A complaint is an expression of dissatisfaction about the Council’s provision of, or failure to provide, a service for which it has responsibility (includes those services provided by a contractor or partner) that requires a response. There is no difference between ‘formal’ and ‘informal’ complaint. Both are expressions of dissatisfaction which require a response.

WHAT IS NOT A COMPLAINT?

Not all complaints can be investigated under this procedure. Exclusions to this procedure are set out in [Appendix 1](#).

Informal service issues

We want to provide good quality, value for money services but sometimes things can go wrong. We encourage all staff to work with customers to find a resolution and in many cases issues can be resolved quickly and put the matter right straight away without the need to use the formal complaints procedure. These can be dealt with under Bromley's '[Report it](#)' procedure. Examples could be a missed bin on refuse collection day.

However, if a customer is unhappy about the way a service issue or request was handled, this should be dealt with under the Bromley Complaints Procedure.

Appeals

An appeal is where a request is made to change or overturn a decision. For some services there is a separate appeals process, and in these cases the complaints process should not be used. These include:

- Appealing against the outcome of a financial assessment ([see Appendix 2](#))
- Housing, including homelessness decisions, housing register applications and housing benefits appeals. (*Further details can be found in [Appendix 3](#)*)
- Decisions made by the Substance Misuse Practice Review Group, on funding access to Tier 4 provision (residential rehabilitation and inpatient detoxification) for people with substance misuse problems (drugs and/or alcohol) in Bromley.
- Disputes against planning decisions and enforcements. [Link to 'Making a planning appeal'](#)
- Challenging a penalty notice (parking) [Link to the pages on Council website](#)
- Business rates and council tax valuations banding appeals - [Link to Council website](#)

However, if a customer is unhappy about the way an appeal or tribunal was handled, this should be dealt with under the Bromley Complaints Procedure.

Appeals against school admission decisions or exclusions

If an applicant is not offered a place for their child at their preferred **primary** school, they have the right of appeal under the School Standards & Framework Act 1998. [Link to the Council's Primary Schools Admissions Appeals process.](#)

All Bromley **secondary** schools and academies are responsible for their own appeal arrangements. All enquiries regarding appeals should be directed to the individual school/s. [Link to Secondary Schools Admission Appeals process.](#)

Appeals against decisions about a child's special educational needs

The Special Educational Needs and Disability Tribunal is an independent tribunal set up to consider parents'/guardians' appeals against decisions made by Local Authorities about a child's special educational needs, where parents cannot agree with the Local Authority. The

Tribunal also considers parents' claims of disability discrimination in schools. [Link to information on the Tribunals Process.](#)

WHO MAY COMPLAIN?

Certain criteria must be met before a complaint can be accepted. Therefore if unsure, advice should be sought either from a manager or the Complaints Team. This guidance is to assist officers determine a person's eligibility to complain under this procedure. This is important because officers need to be mindful of the resources required to cover in-depth investigations, particularly if there has been no or very limited injustice caused to the complainant. It is also helpful to note the criteria under which the Local Government Ombudsman will accept a complaint in its assessment stage - further details can be found on the [LGO website](#).

Complaints can be accepted from:

- A person (or their representative) who receives or has received services via the London Borough of Bromley.
- A person affected, or likely to be affected, by the action, omission or decision of the London Borough of Bromley.
- A complaint may be made by a representative acting on behalf of the person who:
 - Has died
 - Is a dependent
 - Has requested the representative to act on their behalf
 - Is unable to make the complaint themselves because of physical incapacity or the lack of capacity within the meaning of the Mental Capacity Act 2005.

Unless tested by an appropriate health or social care practitioner, it must be assumed a service user has capacity. If so, consent should be sought from the service user if a complaint is being made on their behalf. Discretion may be used if the representative is either the next-of-kin or main carer but in this case consideration should always be given to whether or not the person complaining is acting in the service user's best interests and/or the service user is happy for a complaint to be made on their behalf.

When a complaint is made by a representative with respect to a person who lacks capacity, it should not be progressed if the Council is not satisfied it is being pursued in the best interests of the service user. Usually the representative should either be the next-of-kin/nearest relative or hold power of attorney for the service user.

If a complaint is not accepted on these grounds, then the Complaints Team should notify the representative in writing, and clearly give the reason for the decision.

Complainants who make persistent complaints or act in a threatening manner will be dealt with in accordance with the appropriate procedure, which is set out in [Appendix 4](#).

RECEIVING AND ASSESSING A COMPLAINT

A person can make a complaint in a way that best suits them, but should be encouraged to submit their complaint in writing:

By letter: Complaints, 3rd Floor, Stockwell Building, Civic Centre, Bromley, BR1 3UH.

By email: Adults social care - socialcarecomplaints@bromley.gov.uk,

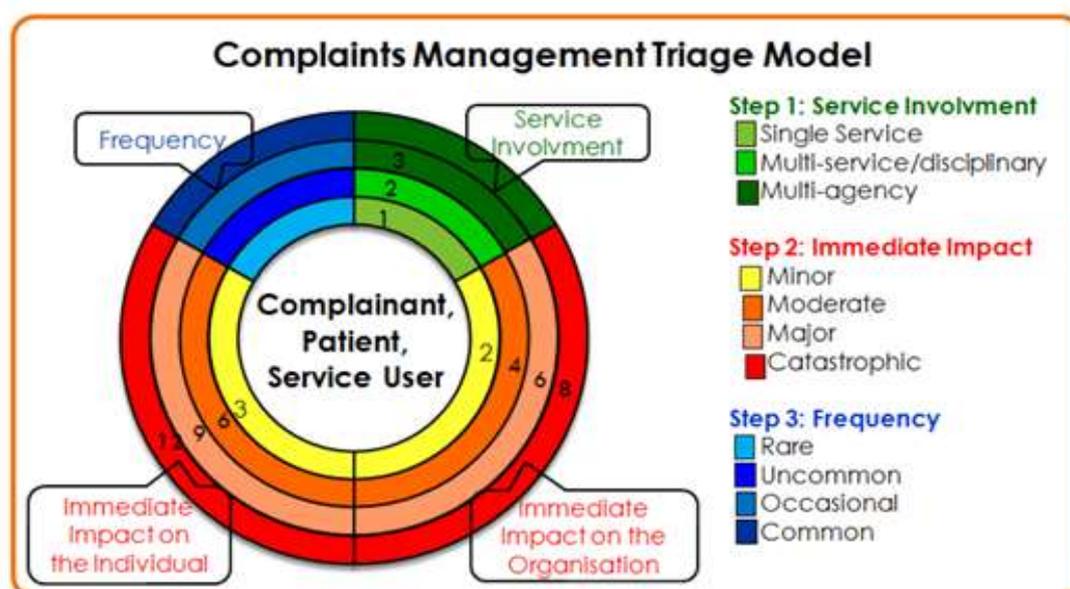
Children's social care - cypsocalcarecomplaints@bromley.gov.uk

All other matters - corporate.complaints@bromley.gov.uk

Via the web: By using the complaints form on Bromley Council's [website](#).

Complaints that are resolved to the complainant's satisfaction within 48 hours should not be handled or recorded as formal complaints. However, the Complaints Team may keep a record of it as an **informal** complaint in case similar issues are complained about by the same person at a later date and to identify trends.

Undertaking a **risk assessment** of the complaint will help ensure it is dealt with in the most appropriate way. The table below can help determine the seriousness of the complaint in relation to the frequency by which the particular issue has been raised, the degree to which services are involved and the impact upon both the service user and the organisation. The outcome of the risk assessment will help inform the best way of addressing the specific concerns.



If the risk is low i.e. falls into the 'inner rings' of the chart below, then the member of staff can be confident the matter can be resolved informally. If the risk is higher i.e. falls within the outer rings, then it would be safer to follow the formal complaints route.

STAGE 1: LOCAL RESOLUTION

Taking into account the nature and seriousness of the complaint, the manager of the service area being complained about will usually record, investigate and respond, unless the complaint is about them, in which case a more senior manager will respond.

Complaints should be acknowledged within three working days, and a full written reply should be sent within 20 working days. If the issue is very complicated and it is apparent that it may take longer to investigate, the investigating officer should let the complainant know if they need more time to investigate and respond.

If the complainant is dissatisfied with the outcome of the Stage 1 investigation, they can ask for it to be **reviewed by a more senior manager on behalf of the Chief Executive**. In most cases this will be the Director or Chief Officer of the relevant department, or a senior nominated officer. The Complaints Team will co-ordinate the response, which will be signed off by the Chief Executive.

The option to review a response will help ensure the complaint has been investigated thoroughly and will avoid complainants being prematurely referred to the Local Government Ombudsman.¹

The complainant should be asked to state why they are dissatisfied, whether their dissatisfaction is with the whole or part of the Stage 1 response, and which parts of the complaint are still outstanding. They should let the Council know what they would like to result from the Chief Officer's investigation, and be asked to provide any further information and supply any relevant evidence if this is available, which may help in resolving their complaint.

STAGE 2: REFERRAL TO LOCAL GOVERNMENT OMBUDSMAN (LGO)

The Council aims to resolve complaint within its own process but if the complainant is still dissatisfied after Stage 1, they can ask the LGO to investigate. The LGO will usually only consider complaints after the Council has had the opportunity to resolve matters within its own procedure. There is no charge for this service. There are occasions when the LGO may accept a complaint before the Council has investigated it, but generally if a complainant approached them before going through the Council's process, the LGO will re-direct the complaint to the appropriate Council and ask it to deal with the matter first.

OMBUDSMAN ENQUIRIES

If a complainant escalates their complaint to the Local Government Ombudsman (LGO), the LGO will assess and decide on whether it will conduct a full investigation. The LGO may ask for some documentation as part of its assessment and would expect the Council to respond, usually within 5 working days.

If the LGO decides to conduct a full investigation, it will send a letter requesting information and documentation relevant to the specific complaint and a series of questions inviting comments from the service. The LGO will usually expect a response within 20 working days.

After the LGO has evaluated the Council's response, it will issue a Provisional View and send this to the Council, citing any instances where the Council has been at fault and whether there has been any maladministration.

The Council, with the support of the Complaints Team, must consider this, identify any factual inaccuracies and give reasons if it disagrees with the LGO's findings and recommendations if not in accordance with them. The LGO will give the Council a timescale within which to respond. The response must be signed off by a senior officer, preferably the Assistant Director of the relevant service.

There are occasions where the Council has to communicate with the LGO to reach an outcome that is satisfactory to both parties. If agreement cannot be reached, the LGO might issue an adverse findings report, which the Council is obliged to publish in the local press.

Once agreement has been reached, the LGO will publish a Final Decision Statement. At this stage, the Council is expected to comply with any recommendations, including the issuing of financial redress. Even if the complaint has reached the LGO, it can still be resolved locally between Council and complainant, in which case the LGO will generally discontinue its investigation.

Ombudsman enquiries to the Chief Executives and Environmental Services Departments will be recorded by the Complaints Team and sent to the relevant officer within the service. The LGO enquiry will be tracked by the Complaints Team to ensure the response is sent within the timescale set by the Ombudsman or will request an extension if necessary. The Complaints Team will then check that the enquiry has been addressed fully and that all the requisite documents have been made available, before forwarding the information onto the LGO.

The LGO will write to the Chief Executive annually providing an outline of all the complaints it has dealt with against the Council.

Further details can be found on the [LGO's website](#).

TIME LIMIT FOR MAKING A COMPLAINT

A person wishing to make a complaint must do so no later than 12 months after the date on which the matter occurred or, if later, the date on which they became aware of the matter being complained about.

The Council can exercise its discretion if the complaint has been made after the time limit and is satisfied the complainant had good reason for not making the complaint within the 12 month time limit. The decision as to whether or not to accept a complaint is dependent

upon whether it is still possible to conduct an effective investigation given the amount of time that has elapsed.

COMPLAINTS INVOLVING OTHER AGENCIES OR CONTRACTORS

Increasingly, the Council works with external organisations or contractors, who will follow their own policies and processes when dealing with complaints. Wherever attempts to resolve matters between the complainant and contractor have failed, the Council will consider such complaints under our corporate policy.

Housing Benefit & Council Tax

Although complaints about Housing Benefit & Council Tax are covered by the Corporate Complaints Procedure, they are handled by an external provider who is contracted to the Council to provide these services. The contract is currently managed by Liberata, which has its own complaints manager who oversees complaints about this service area. The Council is provided with complaint statistics for its reports.

COMPLAINTS ABOUT SCHOOLS

Complaints about schools should be referred directly to the specific school where they will be dealt with by the head teacher or the chair of governors. Complainants who are not satisfied with the response from the schools should escalate their concerns to the Secretary of State for Education. [Link to information on the Schools Complaints Process.](#)

COMPLAINTS AGAINST A COUNCILLOR

Anyone, including an employee, member of the public or even another councillor, can complain to the Council if they feel that behaviour by a councillor or co-opted member of the Council may have fallen short of the required standard. Such matters will be considered by the Standards Committee.

Complaints must be made via the [complaints form](#) or in writing to the Monitoring Officer at the Civic Centre, Stockwell Close, Bromley BR1 3UH, giving information about the nature of the complaint, identifying which part of the Code of Conduct may have been breached by the councillor and how, and, where possible, any supporting evidence.

MP OR MEMBER ENQUIRIES

Formal MP and Member Enquiries should be passed on to the Complaints Team for recording and inclusion in quarterly and annual complaints reports.

Enquiries received via the Chief Executive's, Director's or Assistant Director's offices should be forwarded onto the Complaints Team, who will acknowledge the enquiry within 3 working days and ensure it is forwarded onto the relevant officer to respond. The target timescale for responding to formal MP and Member enquiries is 20 working days.

The responding officer should send a copy of their response to the Chief Executive or relevant Director, as well as to the Complaints Team for recording.

Informal enquiries from Council Members (e.g. for information) will usually be passed to the relevant Director or Assistant Director for response. A copy of the enquiry and response should be forwarded onto the Complaints Team for recording and reporting purposes.

ADVOCACY AND SUPPORT

The Council commissions **advocacy services for adults** who need assistance. [Advocacy First](#) is an independent, locally based charity which offers a free and confidential service, working in partnership with local authorities and other organisations. It offers services for people in the community, patients in hospital, and people in care and nursing homes in the London Borough of Bromley.

Details of the current advocacy service provider **for children and young people** are available through the Complaints Team.

To assist people who **do not speak English as their first language**, the Complaints Team can arrange for translation or interpretation services. The Complaints Team can arrange for responses to complaints to be translated, to ensure the complainant understands the response as far as is possible. Complaints forms can also be produced, on request, in Braille, audio format and large print.

RECORD MANAGEMENT AND DATA PROTECTION (ACCESS TO RECORDS)

All functions of the complaints procedure must adhere to the requirements of the Data Protection Act, 1998 and the Freedom of Information Act, 2000.

Particular attention is drawn to the need to ensure that any personal information obtained in relation to a complaint is only used for that purpose. Use of this information must comply with the Data Protection Act, 1998.

Those involved in the investigation should have access to the notes of their own interview in order to confirm the accuracy of the content.

Records of complaints received including any investigation reports and letters of response should all be placed on the relevant service user's file; unless there are specific reasons not to do so (for example if the reports would cause distress to the service user). This includes electronic records and files.

The Complaints Team also holds the complaints investigation reports and all other relevant papers, which are subsequently scanned and stored electronically.

Service users may be concerned that details of the complaint might be given to other people who do not need to know about it. Therefore it vital their confidentiality is respected and details of the complaint should be kept in a secure place.

Complaints about breaches of data protection are investigated using the Corporate Complaints Procedure and then referred to the Information Commissioner's Office. If a member of staff is found to be responsible for a data protection breach, the matter will be dealt with internally.

Requests for information (made under the Freedom of Information Act 2000)

The Freedom of Information Act 2000 (FOIA) gives rights of public access to information held by public authorities, subject to certain conditions and exemptions. Bromley Council has a duty to provide this information within a set timeframe (normally 20 working days). If the Council deems the requested information is exempt from disclosure, it has a duty to give reasons for refusing to provide this information¹. It also has a duty to give reasonable advice and assistance to applicants.

Any written correspondence where the applicant says they are unhappy with the Council's response to an information request, or any communication which indicates that the Council is not meeting its obligations as set out within its publication scheme should be treated as a complaint. Applicants should be given details of Bromley's complaints procedure, including how to make a complaint and inform them of their right to complain to the Information Commissioner's Office if they remain dissatisfied with the outcome of any internal review.

SUBJECT ACCESS REQUESTS

Subject Access Requests are dealt with independently from the complaints process. However, both processes can run simultaneously.

Request for adults should be passed to the Business Information Officer for action.

Requests for children are dealt with by the Complaints Team, using the process as outlined in the Data Protection Act.

COMPLIMENTS

It is important to recognise that many people have very positive experiences of the services they receive from the Council and it is just as important to record the feedback we receive from those who take the time and trouble to give us praise as it is to record expressions of dissatisfaction.

¹ Information Commissioners Office: 'Refusing a request: writing a refusal notice (Section 17) 20121206 Version: 1'

It is expected that any compliments received by staff from members of the public are sent to the complaint service so that they can be recorded on the database.

Compliments are a good indicator of customer service satisfaction and, like complaints, this feedback represents valuable free market research on the services we provide. Compliments can be used to promote the services that are doing well and to use those successes as models for services that may be floundering.

Positive feedback is an important part of the public facing annual complaints report however, without the help of staff, this opportunity for the Council to celebrate its successes may be lost. It is therefore imperative staff remember that compliments must be sent to the complaint service so they can be captured. Compliments can be sent via to one of the complaint inboxes: socialcarecomplaints@bromley.gov.uk / cypsosocialcarecomplaints@bromley.gov.uk / corporate.complaints@bromley.gov.uk or via post to: Complaints, 3rd Floor, Stockwell Building, Bromley, BR1 3UH.

SECTION B: STATUTORY COMPLAINTS PROCEDURE: ADULT SOCIAL CARE

GENERAL

This is a two-stage process, based on The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009. It should be used for complaints about all adult social care.

The Council will seek to resolve complaints at the earliest opportunity. Where possible, before commencing the formal two-stage process outlined below, every attempt should be made to deal with complaints quickly and informally at the point of delivery. See *Good Practice Guide* in [Section D](#)

If a concern cannot be resolved to a customer's satisfaction at the point of service delivery, or if the customer wishes to make a complaint, a formal complaint must be recorded (unless exemptions apply. See [Section A](#).

STAGE 1– LOCAL RESOLUTION

Within this first stage, the Council can adopt a flexible, person-centred and proportionate approach to complaints handling. The format of investigation will be dependent upon the nature and complexity of the complaint. This means that a combination of investigation and alternative dispute resolution techniques can be used within the first stage.

The complainant also has the right, if unhappy with the initial response, to make a further representation. If it is felt there are outstanding concerns that have not been adequately addressed, a senior officer who has had no prior involvement, will review the initial response against the concerns that have been raised.

The investigating officer will consider whether or not to uphold the initial finding based on the facts or any additional evidence that has been brought to light. This is still part of the first (local resolution) stage of the process.

In most cases, it will be appropriate for the team manager to investigate. A face to face meeting with the complainant may in some cases be appropriate and complainants can, if they wish, ask for a meeting with officers involved in their complaint to try and resolve the matter.

Complaints about Public Health Services will be investigated in the first instance by the manager of the relevant team and will then be escalated to the Assistant Director of Public Health, if necessary. Complaints should be sent to the Complaints Team to be recorded on the database.

Target Timescales for Investigation

Complaints must be sent to the Complaints Team for logging as soon as possible.

- Acknowledgement within 3 working days
- Initial Response: up to 20 working days
- Up to a further 20 working days if the complainant wishes for the response to be reviewed.

Complaint responses at Stage One need to be sufficiently robust to meet any challenges from the Local Government Ombudsman (LGO) if the complaint is taken to Stage Two, so it is important that any investigation is thorough and addresses all the points raised in a complaint. Asking the complainant what resolution or outcome they are looking for can help to determine whether or not a local resolution is realistic and/or achievable. See [Section D for guidance](#).

STAGE 2 – REFERRAL TO THE LOCAL GOVERNMENT OMBUDSMAN

If the complainant remains unhappy they have the right to approach the Local Government Ombudsman (LGO).

The option to review a response will help ensure the complaint has been investigated thoroughly and will avoid complainants being prematurely referred to the Local Government Ombudsman.¹

¹The law says that, before investigating a complaint, the Ombudsman must be sure that the Council knows about the complaint and has had a reasonable opportunity to investigate and reply to it. If the investigator has concluded from what they have been told that this hasn't happened yet, they send the complaint back to the Council. The LGO can, in exceptional circumstances, waive this requirement and take on a case for investigation earlier. If they do this, they will always explain why to all concerned.

DISPUTING THE OUTCOME OF ADULT SOCIAL CARE ASSESSMENTS OR REVIEWS

If a service user or their representative wishes to **dispute the outcome of an assessment or annual review**, the manager of the team responsible for undertaking the assessment will be asked to review the assessment against the concerns that have been raised and take a view on whether or not a re-assessment would be appropriate. The re-assessment would be completed by a different care manager, usually senior to the one who carried out the original assessment. If the complainant remains dissatisfied they should be referred to the Ombudsman.

As part of the decision-making process for determining an adult's eligible needs for Council support, particularly in relation to residential care, a care manager will submit their recommendation to the Adult Social Care Practice Review Group for independent validation.

The Practice Review Group will then consider both need and best value to the Council in deciding whether or not to accept the recommendations. Inevitably this will mean that not

everyone will be satisfied with the outcome and may therefore wish to request that that decision is reviewed against any new evidence that may be presented.

In the first instance, the care manager should consider resubmitting the application with any additional information they think should be considered at the Practice Review Group. If the person concerned is dissatisfied with the outcome of the review, the care manager may invite them to attend a Practice Review Group meeting in order to make their own representations.

If the person remains unhappy with the group's decision, there is no further right of review unless at the discretion of the Head of Service or Assistant Director. They do have the right to approach the Local Government Ombudsman. It will be recorded as a 'disputed decision'.

See [Appendix 2](#) for appeals against financial assessments.

JOINT COMPLAINTS ABOUT HEALTH AND SOCIAL CARE

Organisations have a duty to cooperate and work together in handling complaints.² A coordinated investigation should be undertaken and, wherever possible, a single response provided.

When a complaint is received about matters relating to both adult care services provided by the Council and services provided by the NHS, the Complaints Team should contact the complaints officer in the relevant NHS body and agree who will take the lead on the complaint.

The expectation is that the complaints officer of the service carrying the main weight of the complaint will take the lead. This is open to negotiation, especially if it is felt the complaint is weighted equally between both services.

The Complaints Team should establish contacts with counterpart complaint officers in order to make this process as smooth and efficient as possible. The management and co-ordination of any joint complaints will be overseen by the Complaints Team.

There may be occasions when it is not possible to issue a single response within the Council's own timescales e.g. where the other organisation is operating within different timescales. In these cases, the Council may wish to send a separate response. It should be made clear both to the partner organisation and the complainant that this decision has been made to send separate responses and the complainant should also be informed that the response from the other professional body will follow under separate cover.

² [The Local Authority Social Services and National Health Services Complaints \(England\) Regulations 2009](#)

Sometimes a complaint that is entirely concerned with an NHS matter is mistakenly sent to the Council. In such instances, the Complaints Team should contact the complainant within three working days, advising them of the error and seek their permission for the complaint to be forwarded to the correct organisation on their behalf. Once permission has been granted, the complaint should be passed to the other organisation immediately, and a written acknowledgement should be sent to the complainant, detailing where the letter has been sent, including the relevant contact details.

NHS Contacts

- i. **Bromley Clinical Commissioning Group** – For complaints about commissioning of an NHS Service, telephone: 01689 866 544. [Link to information about the NHS Complaints Procedure](#).
- ii. **NHS England (London)** - For concerns about a primary care and specialist commissioning (e.g. GP, dentist, pharmacist or optician) which cannot be resolved locally, telephone: 0300 311 2233 or email england.contactus@nhs.net. [Link to](#) further information.
- iii. **Kings College NHS Foundation Trust** – for concerns about Princess Royal University Hospital, Orpington Hospital or Beckenham Beacon, kch-tr.patientcomplaints@nhs.net or telephone: 0203 299 3209/4501. [Link to](#) further information. The Patient Advice and Liaison Service (PALS) can be contacted weekdays from 9am to 5pm, on 01689 863252 or email kch-tr.PALSkent@nhs.net
- iv. **Bromley Healthcare** – for concerns about community health services, contact contact@bromleyhealthcare-cic.nhs.uk or telephone 020 8315 8880. [Link to](#) further information.
- v. **Mental Health (Oxleas NHS Mental Health Foundation Trust)** - See [next section](#) below.
- vi. **Croydon Health Services** – Complaints about Croydon Mayday Hospital can be sent to ch-tr.complaints@nhs.net. Information on the PALS can be found via [this link](#).
- vii. **NHS Advocacy Service** - offers support to those who want to make a complaint or need advice about the NHS complaints procedure. The service can be contacted on 0300 330 5454 or emailed at: nhscomplaints@voicability.org
- viii. **The Parliamentary & Health Service Ombudsman** makes final decisions on complaints that have not been resolved by the NHS in England. [Link to](#) further information.
- ix. **Healthwatch England** is the national consumer champion in health and social care. It has significant statutory powers to ensure the voice of the consumer is strengthened and

heard by those who commission, deliver and regulate health and social care services.
[Click Link to re](#) for Further information about Healthwatch.

COMPLAINTS ABOUT MENTAL HEALTH SERVICES

Complaints about the **commissioning** of mental health services in the Borough are handled by Bromley Council's Complaints Team following the Adult Social Care Procedures as outlined in this Section.

Complaints about **operational matters** concerning the mental health services commissioned by Bromley Council will be dealt with by Oxleas NHS Foundation Trust. Oxleas has its own complaints service and if a patient or their representative wishes to make a comment, suggestion or complaint, it is recommended in the first instance that they contact the Patient Advice and Liaison Service (PALS) on 0800 917 7159 or email pals@oxleas.nhs.uk .

A **formal** complaint about Oxleas services can be made by completing a confidential [online form](#) or by writing to: Complaints and PALS Manager, Oxleas NHS Foundation Trust, Pinewood House, Pinewood Place, Dartford, Kent DA2 7WG. Tel: 01322 625751, or email complaints@oxleas.nhs.uk.

COMPLAINTS ABOUT CARE PROVIDERS

When the Council contracts out its care services, it is still responsible for ensuring that complaints are properly investigated.

If a complainant approaches a care provider directly about care which has been commissioned or arranged by the Council, the provider will be expected to investigate and respond in line with its own complaints procedure.

If the complainant approaches the Council rather than the provider and if the care has been commissioned by the Council, the Complaints Service will accept, record and acknowledge the complaint.

The Council's Complaints Team will seek permission from the complainant to forward their complaint onto the provider, and invite the registered manager to conduct an investigation. The care provider should send its investigation report to the Complaints Team within the recommended timescale.

Before sending the provider's report to the complainant, the Complaints Team will check the report to ensure it has adequately addressed the complaint. If it hasn't, or if the response is not to a satisfactory standard, the Complaints Service will refer the response back to the provider to so it can make the necessary amendments.

Once the Complaints Team is satisfied the investigation report is ready to be sent out, it will forward the provider's response to the complainant, along with a covering letter from the

Council. It will also send a copy to the contracts monitoring officer so any issues can be followed up during their routine visits.

If the complainant remains dissatisfied, the Complaints Team will liaise with the contracts monitoring service, which will review the provider's response against any relevant documentation the provider may be requested to supply. The Complaints Team may also request that a care manager makes relevant enquiries with the client and agency in order to gather any necessary intelligence pertinent to the complaint. Together with the contracts monitoring officer or care management, the Council will then prepare a response based on its findings. If the complainant is still unhappy they can approach the LGO.

The Local Government Ombudsman has the authority to investigate complaints about private registered care providers. The complainant should be reminded of their right to approach the LGO if unhappy with the response; the LGO's contact details should be included in the Council's covering response letter.

If the Council receives a complaint about a care provider from someone who has arranged their care independently, it should seek permission from the complainant to forward the complaint onto the provider. The provider will then investigate the complaint in line with its own complaints procedures. The concerns should be brought to the attention of the contracts monitoring officer, as this will provide additional intelligence to assist in monitoring the provider's contractual obligations towards the Council.

Care Standards

The Care Quality Commission CQC is the regulatory body for all care providers. All registered providers are bound by the terms of their registration to have their own complaints process. Complaints relating **purely** to care standards such as general poor practice within a home or where if it is suspected a provider is not registered, the CQC can be contacted on **03000 616161 / enquiries@cqc.org.uk** . In the majority of cases, there will be an expectation that a provider's complaints procedure has been accessed in the first instance.

The CQC will not investigate complaints about registered service providers from individuals and about individual cases; these must be dealt with either by the commissioning authority (the Council) or the service provider.

If any aspects of the complaint relate to the commissioning and/or contractual role of the Council, these components will need to be addressed under the Council's complaints procedures.

If the complainant expresses concern about following this route or if there is any concern about the discharge of the Council's statutory function, the Complaints Service will consider this on a case by case basis.

Whistleblowers are protected under law; further details are available by clicking on [this link](#).

ADULT SAFEGUARDING

Any **adult safeguarding** concerns should be reported through the proper channels. [Click here](#) for further details.

If the Complaints Team receives a complaint involving possible adult safeguarding issues, it will alert the Adult Early Intervention Service. Social care practitioners will then determine whether the matter reaches the safeguarding threshold.

The Complaints Team will suspend the complaints process while the safeguarding process is on-going. The complainant may wish to reinstate the complaint after the conclusion of any consideration under safeguarding procedures and should be informed of their right to do so. However, this may not be a reason to stop the complaints process in respect of any other element of the complaint, unless to do so would compromise or prejudice the safeguarding process.

Anyone who wishes to challenge the outcome of a safeguarding case conference should put this request in writing within 21 days of the conference taking place. The BSAB Chair will determine within 28 days of the receipt of the appeal whether the grounds for the appeal are upheld, and write to the appellant. Details can be found in the Safeguarding Adults in [Bromley Multi-Agency Practitioner Toolkit](#):

SECTION C: STATUTORY COMPLAINTS PROCEDURE: CHILDREN'S SOCIAL CARE

GENERAL

The Children Act 1989 defines the representations procedure as being for '*representations (including complaints)*'.

This guidance describes the statutory procedure for a child or young person who may want to make representations, including complaints, about the actions, decisions or apparent failings of Bromley's social care services for children.

The Council's aim is to ensure managers respond to the issues raised, setting out what action should be taken. We also need to make sure that children and young people know how to do this. The child or young person has the same right to advocacy whether the representation is a complaint or not.

When the representation is not a complaint and the Council fails to respond to the child or young person's satisfaction, they will then be entitled to make a complaint at Stage 1.

WHEN TO USE THIS PROCEDURE

Functions of the local authority under Parts 3, 4 & 5 of the Children's Act may form the subject of a complaint. A complaint may arise as a result of many things relating to statutory social care functions.

Where social work information or a social work report has gone to Court, the child or young person can make a complaint about the quality or accuracy of the report but not about the subsequent actions of the Court.

With complaints about regulated services under the Care Standards Act 2000 and where services are delivered on behalf of the Council or through an internal service that is regulated, it may need to be considered under this procedure if required.

Adoption Services

The following adoption-related functions may be the subject of a complaint:

- Provision of adoption support services insofar as these enable adoptive children to discuss matters relating to adoption
- Assessments and related decisions for adoption support services
- Placing children for adoption, including parental responsibility and contact issues
- Removal of children who are or may be placed by adoption agencies
- Removal of children in non-agency cases
- Duties on receipt of a notice of intention to adopt
- Duties set out in regulations in respect of:

- Considering adoption for a child
- A proposed placement of a child with prospective adopters
- Placement and reviews
- Records
- Contact
- Parental responsibility prior to adoption abroad.

Special Guardianship Support Services

Under the Special Guardianship Regulations 2005, the following 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
- Assistance to ensure the continuation of the relationship between the child or young person and their Special Guardian or prospective Special Guardian.

EXEMPTIONS FROM THE STATUTORY COMPLAINTS PROCEDURE

The Council has found only a small proportion of complaints are from young people or those acting on their behalf. The majority are from parents, family or friends. This means that the child's or young person's interests are sometimes not central to the complaint and they can be unaware of one being made. Sometimes the process is used to further personal interests, such as settling family disputes. The Complaints Team will consider each complaint on its own merits and, if it is clear the complaint is not from or on behalf of a child or young person, or that it is not serving the interests of that child or young person, it will be handled through the Council's Corporate Complaints Procedure, as set out in [Section A](#).

The statutory 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 about the actions or decisions of the Council or of anybody acting on its behalf;
- The same complaint has already been dealt with at all stages of the procedure.
- The Council will not, unless under exceptional circumstances, consider a complaint if any of the following processes relating to the subject of the complaint are active:
 - Court proceedings
 - Tribunals
 - Disciplinary proceedings
 - Criminal proceedings

If the case is subject to any of the above proceedings, the Complaints Team should be advised so that it can write to the complainant and explain the reasons for not being able to accept the complaint.

Once the concurrent investigation has been concluded the complainant may resubmit their complaint to the Council as long as it is within one year of the conclusion of the concurrent investigation.

The procedure does not cover complaints from foster carers about children they used to look after or their working relationships with the Council or decisions about whether to place or remove children.

Section 47 of the Children Act 1989, which gives the Council a duty to investigate if they suspect a child is suffering or likely to suffer harm, is not specifically covered by the complaints procedure. Complaints about decisions made at child protection conferences are subject to a separate process and will usually be considered by the Chair of the conference.

Complaints about carers directly employed by the client are outside the jurisdiction of the complaints process however the client does have recourse to safeguarding procedures if there are any safeguarding concerns.

WHO MAY COMPLAIN?

In accordance with the Children's Act 1989 and ['Getting the Best from Complaints'](#) guidance the following people can make a complaint or representation to the Council:

- Any child or young person who is being looked after by the Council or is in need;
- Any Bromley foster carer (including those caring for children placed through independent fostering agencies) currently caring for the child;
- 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 whom arrangements for the provision of adoption services extend;
- Adopted persons, their parents, natural parents and former guardians;
- Any other person who Bromley Council considers to have sufficient interest in the child or young person's welfare to warrant their representations being considered by them.

Where a complaint is received from a representative acting on behalf of a child or young person, the Complaints Team will, where possible, confirm with the child or young person that they are happy for this to happen and that the complaint submitted reflects their views. Such complaints may be received via the Children's Rights Officer, Advocates, Solicitors, school staff etc.

It is at the Council's 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 the Council considers the representative does not have sufficient interest, the representative will be informed in writing with an explanation that no further action shall be taken.

Anonymous Complaints

The Council may 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 the Council discretion 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 complaint being considered under these procedures. In reaching a decision, the Complaints Team may check with the child or young person that he/she is happy with the person making a complaint.

Anonymous complaints should always be recorded and referred to the Complaints Team in the same way as other complaints. Anonymous complaints cannot go through the full process but it is equally important to pursue the subject of complaint as far as possible in order to identify problems within the service. Any such complaints may also need to be referred to other procedures if relevant.

The regulations specify that the complaint may be withdrawn verbally or in writing at any time by the complainant. The Complaints Team will confirm this in writing to the complainant.

TIMESCALES

The Council will endeavour to meet the following timescales (in working days):

- 10 days at Stage 1 (with a further 10 days for more complex complaints or additional time if an advocate is required)
- 25 days at Stage 2 (with maximum extension to 65 days)
- 20 days for the complainant to request a Review Panel
- 30 days to convene and hold the Review Panel at Stage 3
- 5 days for the Panel to issue its findings
- 15 days to respond to the findings of the Panel.

STAGE 1 – LOCAL RESOLUTION

The Complaints Team will record all complaints in agreement with the person making the complaint. The Complaints Team may arrange for conciliation, mediation or other services to help resolve matters.

As with all complaints, the aim is to resolve a complaint as close to the point of contact with the child or young person as possible (i.e. through front line management of the service). In doing so the wishes of the complainant regarding how the complaint should be dealt with will be considered.

Once a complaint has entered Stage 1 of the statutory complaints process, the Council is obliged to ensure that the complaint proceeds to Stage 2, if requested to do so by the complainant, and to give the complainant the opportunity to request a Stage 3 Review Panel if unhappy with the outcome at Stage 2.

The complainant retains the right to approach the Local Government Ombudsman at any time. However, the Ombudsman would ordinarily expect the Council to consider the complaint initially and may refer the complaint back to the Complaints Team if this has not already been done.

Stage 1 complaints should be concluded within the 10 working day timescale. Where this is not possible, the Complaints Team can ask the complainant for a further 10 days' extension. If necessary, a Stage 1 may be suspended until an advocate has been appointed. The maximum amount of time that a Stage 1 should take is 20 working days. The Complaints Officer should inform the complainant of their the right to move on to Stage 2 if the timescale has elapsed for Stage 1 and the complainant has not received an outcome. The complainant may be agreeable to delay escalating their complaint (for example, if the resolution is delayed because a key person is off sick or on leave).

The complaint will normally be passed to the Service Manager to investigate. However, the Service Manager may delegate this task to another manager within the service. The Complaints Team must be advised if this is the case so that the complainant can be notified.

If the matter is resolved, a written response must be sent to the complainant confirming the agreed resolution. The Complaints Team should receive a copy of this.

All Stage 1 responses must include the following paragraph, giving the complainant the opportunity for feedback and/or progression:

“If you remain unhappy with the outcome of your complaint and wish to progress your complaint to the next stage or you wish to raise any further concerns, then please write to the Complaints Officer: Children’s Social Care Complaints Team, Civic Centre, Stockwell Close, Bromley, BR1 3UH within the next 20 working days stating any areas of dissatisfaction. If no response is received within the time specified, the complaint will be closed.”

Where the matter is not resolved locally, or the complainant is dissatisfied with the manager’s response, the complainant then has 20 working days from the expiry of the Stage 1 time limit or the date the response was sent in which to request consideration at Stage 2.

STAGE 2 – INVESTIGATION

The Stage 2 investigation will be conducted by an Investigating Officer (IO) and an Independent Person (IP). Stage 2 commences either when the complainant requests it or, under exceptional circumstances, where the complainant and the Local Authority have agreed that Stage 1 is not appropriate.

If the complaint has been submitted verbally, the Complaints Officer must ensure the details of the complaint and the complainant's desired outcome are recorded in writing and agreed with the complainant. The Complaints Team will draw up the statement of complaint for the complainant to agree, usually when the IO and IP are appointed. The complainant may amend the written record of the complaint. The timescale will start from the date that the statement is finalised.

The aim is to commence a fair and impartial investigation without unnecessary delay. The Complaints Team will ensure this is done and that important information or documents are obtained to facilitate investigation, giving consideration to confidentiality.

The Complaints Officer will liaise with the Assistant Director to appoint a suitable service manager to lead the investigation and to prepare a written report for adjudication by the Assistant Director. The IO may be either an internal officer or an external person appointed specifically for this piece of work. The IO cannot, however, be in direct line management of the service or person about whom the complaint is being made.

An IP must also be appointed for the investigation and be completely independent of the Local Authority. This person must be involved in all aspects of the investigation, including any discussions about the action to be taken in relation to the child.

The IO & IP should have access to all relevant records and staff. These are released within the bounds of normal confidentiality and relevant legislation. A copy of the complaint must be sent to all people involved in the complaint.

Requesting a time extension

The investigation report should be sent to the child or young person within 25 working days. However, this may be impractical in some cases, e.g. where the complaint involves several agencies, if the complaint is particularly complicated or if a key witness is unavailable for part of the time.

Where it is not possible to complete the investigation within 25 working days, Stage 2 can only be extended to a maximum of 65 working days. The Complaints Officer should agree all extensions with the complainant with mutual agreement and appropriate explanation to the complainant. The child or young person should be informed of the reason for any delay and the date by which he should receive a response.

Where one or more agencies are involved in considering the complaint, it is good practice to aim for whichever is the shorter of the timescales to produce the final responses.

Investigation Report

Once the investigation is complete, the IO will write a report on his/her investigations including:

- Details of findings, conclusions and outcomes against each point of complaint (i.e. “upheld” or “not upheld”);
- Recommendations on how to remedy any injustice to the complainant as appropriate.

The report shall be written in plain language, avoiding jargon so that everyone can understand it. The IP shall also provide a report to the Council after reading the IO’s final report, which should indicate:

- Whether or not the investigation has been conducted entirely in an impartial, comprehensive and effective manner
- Whether or not all concerned have been able to express their views fully and fairly
- Whether or not the IO’s report provides an accurate and complete picture of the investigation
- Their views on the IO’s recommendations and any of other in addition to those of the IO if required.

The Adjudication Process

The IO’s report will be passed to the Complaints Officer and the IP. Once both reports are completed they will be given to the Assistant Director who acts as the Adjudicating Officer (AO). The purpose of adjudication is to consider the reports and identify:

- a) Its response
- b) Its decision on each point of complaint; and
- c) Any action to be taken (with timescales for implementation).

The AO will prepare a response to the reports, with decisions on the complaint and actions that the Council will be taking, with timescales for implementation.

The AO may meet the Complaints Officer, IO and IP, to clarify any aspects of the reports, and liaise with the Complaints Officer when drafting the final response.

The AO can also offer to meet the child or young person as part of the adjudication process or afterwards to explain the details of the adjudication i.e. the outcome of the complaint and any proposed actions.

The Complaints Team shall write to the complainant with their response containing:

- The IO’s investigation report
- The IP’s report
- The adjudication letter

This response shall also contain details of the complainant’s right to have the complaint considered for submission to a review panel if they remain dissatisfied. The complainant is given 20 working days to make this request to the Complaints Team.

The Adjudicating Officer should ensure that any recommendations contained in the response are implemented.

STAGE 3 – REVIEW PANEL

When Stage 2 of the complaints procedure has been concluded and the complainant remains dissatisfied, they can request further consideration of the complaint by a Review Panel. As it is not possible to review a complaint that has not yet been fully considered at Stage 2, it is essential there are no unnecessary delays in the conclusion of Stage 2.

For a few cases, further consideration may mean early referral to the Local Government Ombudsman. Otherwise, the complainant can proceed to Stage 3 if it is felt this is the most appropriate way forward.

Role of Review Panel

Review Panels are designed to consider whether the Council adequately dealt with the complaint at Stage 2 of the investigation. They should do this by:

- Listening to all parties
- Obtaining any further information and advice that may help resolve the complaint to all parties' satisfaction
- Focusing on achieving resolution for the complainant by addressing their clearly defined complaints and desired outcomes
- Reaching findings on each of the complaints being reviewed
- Making recommendations that provide practical remedies and creative solutions to complex situations
- Supporting local solutions where the opportunity for resolution between the complainant and the local authority exists
- Identifying any consequent injustice to the complainant, where complaints are upheld, and to recommend appropriate redress
- Recommending any service improvements for action by the authority.

The Review Panel should not re-investigate the complaint, nor should it consider any substantively new complaints that have not been considered at Stage 2. The purpose of the Panel is to consider the complaint and wherever possible, work towards a resolution.

Ideally, no party should feel the need to be represented by lawyers at the Review Panel. However, the complainant has the right to bring a representative to speak on his behalf.

Keeping the focus on the child or young person

The Review Panel provides a fair and accessible process for all participants. Complainants, particularly children and young people, may find this stage to be a stressful experience. Therefore it is important that the Complaints Team ensures the Panel is customer-focused in

its approach to considering the complaint and is child or young person-friendly, ensuring that:

- The Panel acts in accordance with the United Nations Convention on the Rights of the Child;
- The Panel safeguards and promotes the rights and welfare of the child or young person concerned;
- The wishes and feelings of such children and young people are ascertained, recorded and taken into account;
- The best interests of such child or young person are prioritised at all times;
- Where the complaint is made by a person deemed to have a sufficient interest in the child's welfare they should, where appropriate, seek the child or young person's views with regard to the complaint.

The Review Panel will set out its recommendations to the Service on any strategies that can assist in resolving the complaint. This may include financial compensation.

Panel membership

The Panel must consist of three independent people. This means that no panellist can be a member or an officer, nor the spouse or civil partner of such a person. The Independent Person appointed at Stage 2 should not be a member of the Panel.

One member will be assigned as Chair of the panel. The Chair will be appointed by the Complaints Officer within ten working days of the complainant's request to proceed to Stage 3.

Administering the Panel

The Panel hearing must be held within 30 working days of the receipt of a request for a Review. The request must be acknowledged in writing by the Complaints Team within 3 days.

If any complaint is logged on the day by the complainant about the proceedings, the Complaints Officer should record it and the Panel should take a view on the need for further action and should record its decision.

The complainant has a right to attend the Panel and should be informed of this right and assisted in attending as appropriate. Complainants should be informed of their entitlement to be accompanied by another person and for this person to speak on his behalf. This person should not be a barrister or solicitor acting in a professional capacity.

Those involved with the investigation at Stage 2 (the IO and AO) should be invited to attend and contribute if required.

The Complaints Officer also attends the Panel. The Chair shall make the final decision on attendees.

The Panel shall be conducted as informally as possible but in a professional manner and in an atmosphere that is accommodating to all attendees, especially as the complainant may be a child or a young person. Panels are normally structured into three parts:

- Pre-meeting
- Presentations
- Deliberations

The Panel must send a copy of its report to the Complaints Team within 5 working days after the Panel is held.

The Director must send a response to the Panel's recommendations, to the complainant (and other participants as necessary), within 15 working days of receiving the Panel's report. This response should set out how the Service will respond to the recommendations and what action will be taken. The complainant shall be advised of his/her right to refer their complaint to the Local Government Ombudsman.

Timescales

- Complainant requests Review Panel - up to 20 working days after receipt of the Stage 2 adjudication.
- Complaints Officer acknowledges request within 2 working days.
- Complaints Officer appoints a Chair and confirms attendees and content of Panel papers with Chair within 10 working days of the complainant's request for a Review Panel.
- Complaints Officer agrees the other Panellists and date for Review Panel within 30 working days of the complainant's request for Review Panel.
- Complaints Officer circulates Panel papers within 10 working days of the date for the Review Panel.
- Review Panel produces its written report (including recommendations) within 5 working days of the Review Panel.
- Director issues his/her response within 15 working days of receiving the Review Panel's report.

CHILD PROTECTION AND CHILD PROTECTION CONFERENCES

Where consideration of a complaint leads to concerns about the welfare of children, these should be referred immediately to the Council's children's social care or to the police. The handling of any associated complaint can be suspended if necessary.

The welfare of children is a corporate responsibility and the Council works in partnership with other public agencies, the voluntary sector, service users and carers. The Bromley Safeguarding Children Board (BSCB) co-ordinates the way local agencies, including the police, education services and housing services work together to safeguard and promote the welfare of children.

Where enquiries have been conducted under Section 47 of the Children Act, 1989, a Child Protection conference may be held. There is a separate appeals process if the child or family have any concerns about the outcome of the conference. Complaints about the way the conference was held or the conduct of staff members should be handled through the Council's complaints process.

If there are subsequent complaints about the work of individual agencies, or their performance or the provision or non-provision of services, these should be handled in line with the particular agency's complaints process.

COURT ORDERS

The procedure outlined in this guidance is not an appeals procedure. People wishing to appeal against Court orders are advised to approach the Court. However, dissatisfaction about the management or handling of a child's case, even where related to a Court order, may be appropriately considered by the complaints procedure. For example, if it concerns the conduct of social work staff involved in Court procedures. Any such complaints need to be discussed with the Complaints Officer to identify whether the subject of the complaint will be considered under this procedure. The child or young person should also be informed that the complaints procedure cannot overturn a Court decision.

ADVOCACY AND SUPPORT

Throughout the complaints process, the Local Authority should support the child or young person by providing information and advice. This can include signposting to relevant advocacy services and the Children's Rights Officer, if appropriate.

To assist people who do not speak English as their first language, the Complaints Team can arrange for translation or interpretation services. The Complaints Team can arrange for responses to complaints to be translated, to ensure the complainant understands the response as far as is possible. Complaints forms can also be produced, on request, in Braille, audio format and large print.

The Council commissions advocacy services for children and young people and details of the current service provider are available through the Complaints Team.

SECTION D: GOOD PRACTICE GUIDANCE ON HANDLING COMPLAINTS

RECEIVING A COMPLAINT

Any member of staff can receive a complaint and it is a shared responsibility to ensure the process is conducted in an efficient and professional manner. An apology is not necessarily an admission of culpability and a straightforward apology can often help calm a potentially volatile situation.

When a person says they want to complain, avoid simply sending out a form – actively listen to the person’s concerns and advise them of the different ways in which a complaint can be made. In the first instance, try to see whether the issue can be resolved informally. As soon as it becomes apparent someone wishes to make a formal complaint, the complainant should be given information about the complaints procedure and how to contact the Complaints Team.

- Do not get defensive, make judgements or agree actions on behalf of others.
- Do assure the person their concerns will be taken seriously.
- Always ask the person how the situation could be resolved for them and what they are looking for as an outcome. It often helps to ask someone what they consider to be reasonable.

If a formal complaint is being made, offer to assist in this process – either directly or, if more appropriate, via the Complaints Team and ensure the complainant is signposted to independent advocacy if appropriate.

It is important we listen to and respond to the concerns of children and young people. If a child or young person wishes to make a complaint, we should provide them with information about the complaints procedure and how to obtain an advocate.

Inform the Complaints Team as soon as a complaint is received and forward any correspondence received. This will ensure the correct process is followed and that the complaint can be recorded and monitored.

The Complaints Team records all complaints on its database, therefore it is important that they are informed of all complaints received either verbally or in writing. It still needs to be recorded by the Complaints Team even if the matter is resolved immediately.

RESPONDING TO A COMPLAINT

When dealing with complaints, investigating officers should offer to meet with the complainant when appropriate. If this is not an option, at the very least phone contact should be made.

Keep the complainant informed throughout the process and send holding letters when necessary:

- Any correspondence should be on headed paper with full contact details.
- Use plain language – avoid jargon, abbreviations and overly long sentences.
- Embolden headings and ensure each complaint is clearly addressed within the response.

The response should always thank the person for bringing their concerns to the attention of the Council and apologies should be offered for the fact that this has been necessary. The tone of the response should be conciliatory and sincere.

Explain how you have investigated the complaint and who you have consulted.

If the complaint is found to be justified, detail what actions are going to be taken to prevent a reoccurrence.

Include an apology if failings have been identified, however do not accept liability for personal injury or failings in duty of care that may lead to compensation claims against the Council without taking appropriate advice.

The final paragraph of the final response should include the investigating officer's contact details and an offer to discuss the response. The complainant should also be reminded of their right to approach the LGO, by including the following paragraph:

"If you remain unhappy with the outcome of your complaint you have the right to take your complaint to the Local Government Ombudsman who can be contacted via post at: PO Box 4771, Coventry, CV4 0EH. For further information, you can visit the LGO's website at: www.lgo.org.uk or contact the LGO via telephone on 0300 061 0614."

The author should be satisfied they have investigated and dealt with the complaint thoroughly before including the above paragraph. This will avoid criticism from the LGO that the complaint was not properly investigated by the Council or being returned by the LGO as premature.

The draft response should be checked by the Complaints Team for quality assurance.

CLOSING A COMPLAINT

All complaints will be reviewed by the complaint service at the end of the process to determine whether or not the complaint has been upheld. The complaint service will usually send a customer feedback form to the complainant to invite them to give their views on the complaints process. Information from returned feedback forms is collated and used to improve the complaint service.

LEARNING FROM A COMPLAINT AND IMPLEMENTING CHANGES

The Council is committed to facilitating organisational learning and development through complaints resolution. Resolving the individual complaint is only part of the process.

Taking positive steps regarding identification of themes and trends, communication, procedural, operational or strategic issues is vital in ensuring a relevant and positive complaints service is maintained.

At the end of the process, managers will be requested to provide details of any service changes they have made as a result of complaints that are upheld (and sometimes complaints not upheld where a need for improvement has been identified). This information will be attached to the complaints system and will be monitored, reviewed and included in subsequent reports.

Recommendations, learning and changes in practice as a result of complaints will be published by the complaints service in their complaints report. Complaints that are upheld will be analysed and operational services are expected to review their processes where they have been the subject of customer dissatisfaction.

SECTION E: APPENDICES

APPENDIX 1: EXCLUSIONS TO THIS COMPLAINTS PROCEDURE

Not all complaints can be investigated under this procedure. Exclusions to this procedure are as follows:

- A complaint that has been previously investigated and responded to under these or previous complaints procedures.
- Complaints relating to matters which occurred more than 12 months previously (see 6 below)
- A complaint that is being, or has been, investigated by the Local Government Ombudsman.
- 'Freedom of Information Act' complaints.
- Complaints relating to direct payments or individual budgets, once the service user has taken control of their care provision.* (They do, however, fall within the procedure if the complaint relates to the process of allocating the payment, about services provided directly by the Local Authority, or when the Local Authority manages the budget on behalf of the service user).
- Complaints about residential or nursing care which an individual has funded independently ('self-funders').*
- Grievance issues or complaints from staff about HR issues.
- When the complainant has advised that they intend to, or have, initiated legal proceedings against the Council in relation to the substance of the complaint.

Where complaints cannot be accepted, Council officers have a duty to prevent unnecessary or unjustified expenditure by ensuring complaints that fall within the above criteria are not investigated.

When other procedures, notably safeguarding, disciplinary, legal or police investigations are in progress the Council should place the complaint on hold to prevent compromising the integrity of the other processes. The safeguarding and complaints process should not run concurrently; safeguarding should take precedence. Once it is established the subject has been safeguarded (i.e. an SA7 (closure) form has been completed), the complaints process can be accessed.

- * It should be noted that the Local Government Ombudsman (LGO) now has the remit to investigate complaints about registered private care providers. Those who arrange and fund their own care can be directed to the LGO if they are not satisfied with the way their complaint was handled by the provider regardless of whether or not the Council commissioned the care.

APPENDIX 2: APPEALING AGAINST THE OUTCOME OF A FINANCIAL ASSESSMENT

Any service user who feels that payment of the assessed charge would result in real hardship may appeal. An appeal will follow the initial assessment if the service user indicates that they are unable or unwilling to pay the assessed charge.

An appeal can be submitted by a care manager/care coordinator, service user's representative or advocate if the service user is unwilling or unable to appeal on his or her own behalf. If this is the case the service user should provide written authorisation to communicate with their representative. Service users are expected to pay their assessed charges or at least a contribution towards the cost of their services while their appeal is being considered.

The appeals process has three stages:

Level 1 - Deputy Exchequer Manager

The Deputy Exchequer Manager has the delegated authority to reduce the assessed maximum charge at the first stage of the appeal for a specified period of time, up to a maximum of one year. The Deputy Exchequer Manager will deal with the appeal within six weeks from the date the appeal is received. A record will be kept of the appeal and the outcome and the service user and/or their representative will receive written notification of the decision.

Level 2 – The Appeals Panel

If the service user is unhappy with the Deputy Exchequer Manager's decision regarding his or her appeal or refuses to co-operate with the charging procedure but would be at risk without provision of the service, an appeal should be submitted to the Domiciliary Care Appeals Panel of the Education, Care and Health Services. The panel is made up of two officers from the Council (a representative from the Education, Care and Health Services, a representative from the Chief Executive's Department) and an independent representative from Bromley Carers. They will examine the evidence submitted by the service user, together with the Deputy Exchequer Manager's report and recommendations. The panel has the authority to reduce charges or waive them completely for a limited period, or until the next annual financial review, according to the service users' circumstances. The second stage appeal will be prepared for the next available panel sitting after receipt of the appeal and the service user will be advised when this will be.

Level 3 – Appeals Sub-Committee

Any service user, who remains dissatisfied with the outcome of the appeal after the second stage, may put their case to the Appeals Sub-Committee. [Click here](#) for further details about the appeals process within the Contributions Policy.

APPENDIX 3: HOUSING APPEALS PROCESSES

More information about the appeals and review procedures are available from the Housing Options & Support service. Below is a summary of the processes:

a) HOMELESSNESS APPLICATION

If an applicant is dissatisfied with a decision on their homelessness application, they can ask for a review of this decision through the statutory appeals process, (in accordance with the Section 202 of the Housing Act 1996). The procedure for getting their case looked at again should be given to the applicant at the time the initial decision is made. The applicant must submit their request for a review within 21 days of receiving the decision regarding their application. After 21 days there is no further right of appeal, however, discretion can be exercised by the Council under exceptional circumstances. The request will be acknowledged and the review will be undertaken by a senior officer who was not involved in the previous decision. In many cases, the review will be carried out by a commissioned independent person.

The decision must be communicated to the applicant, within 8 weeks of receiving the request for a review. The Housing Service must write to the applicant if it needs an extension, and give reasons for this request. If they are not satisfied with a review decision, they may challenge the review decision through the County Court on a point of law, depending on individual circumstances.

b) HOUSING REGISTER BANDING

If an application to join the Housing Register has been refused, the applicant can ask to appeal the decision through an internal review process. The Housing Service should inform all applicants of the refusal and give details of the review process at the time. This will be undertaken by the Housing service, without any Complaints Team involvement. Information about the Review Process is available on the Council's website.

If an applicant is dissatisfied with the priority banding they have been placed in, they can ask for a review of this decision, through the same process. Applicants should have been informed of the band in which they have been placed. To appeal they should write to the Housing service, detailing any additional information in support of their appeal.

c) EMERGENCY ACCOMMODATION

A person in emergency accommodation while awaiting outcome of homeless application does not have a statutory right of appeal (Section 188 of the Housing Act 1996) but the Council does have an internal process if the person provides grounds for refusing the offer. The Council aims to complete this review within 8 weeks of receiving the request. If successful, the person will be moved to alternative emergency accommodation. If unsuccessful, no further offers of accommodation will be made while their homeless

application is pending. If accepted as homeless, they will receive an offer of normal temporary accommodation.

d) TEMPORARY ACCOMMODATION

Under Section 202 of the Housing Act, a person has a right of review of the suitability of temporary accommodation offered after being declared homeless. The process is as for Homeless Appeals. An applicant can choose to refuse an offer of temporary accommodation while the review is taking place but no further offer of accommodation will be made if they are unsuccessful. Alternatively, the applicant can decide to accept the original offer and wait for the outcome of the review. This way, they can remain in the temporary accommodation offered if their appeal is unsuccessful. If successful, they will be offered alternative accommodation. If unhappy with the outcome of this review the applicant can approach the County Court on a point of law.

e) OFFERS OF ACCOMMODATION ON THE HOUSING REGISTER

An offer of accommodation from the Housing Register can be refused but the second offer must be accepted. If the person is a homeless applicant, the review process is as d) above. If the person has applied and been accepted on the Housing Register, they can request an internal review of the offer, which will normally be completed within 8 weeks.

f) APPEALING AGAINST BANDING DECISIONS

If a person has been removed from the Housing Register, does not qualify to join, or wants to dispute their banding, they can request a review. This will be carried out by a senior housing officer within 56 working days. If an extension is required, the officer will write to the applicant to inform them. Following the review, the only right of recourse is either to approach the LGO or apply for a judicial review.

APPENDIX 4: DEALING WITH UNACCEPTABLE COMPLAINTS

Staff or the Council as a whole should not suffer any detriment from people making repeated, frivolous or persistent complaints or who do so in a threatening or difficult way.

The following are given as examples of behaviour by complainants, which may be described as unreasonably persistent:

1. A complainant, by the frequency of their contact with the Council, who hinders objective consideration of a 'live' complaints, including Ombudsman's investigations;
2. A complainant who makes a string of further complaints about a 'live' investigation or changes aspects of the complaint, during the investigation;
3. A complainant who, having exhausted all stages of a complaints procedure, continues to pursue the matter. This could also apply in cases where the Ombudsman has completed its investigation and closed the case;
4. A complainant who seeks an unrealistic outcome and persists in doing so despite being advised that this is the case.

When a complainant is deemed to be unreasonably persistent, they should be informed by the Complaints Team of this and asked to change their behaviour. If the behaviour continues, action may be taken to restrict the complainant's contact with the Council. Any such restrictions should be appropriate and proportionate after considerations by the appropriate Director/Assistant Director.

The most likely options would be:

- Requesting contact in a particular form, such as by letter only;
- Restricting contact to a named member of staff only;
- Restricting telephone calls to specific days and times;
- Asking the complainant to enter into an agreement about their contact.

In cases where the above becomes necessary, the Complaints Team will write to the complainant to explain why their behaviour is unacceptable, what action will be taken and the duration thereof. They should be informed how to challenge the decision if they disagree with it and to whom such an appeal should be addressed.

Where a complainant continues to behave in an unacceptable manner, the Director may authorise staff to terminate contact with the complainant and discontinue any further investigation. Any further written contacts received regarding the complaint will be placed on file without acknowledgement. Telephone calls will be terminated and logged.

In taking the action described above, it is emphasised that this will only be used as a last resort and after all other reasonable measures have been taken to resolve complaints using the appropriate procedure. Judgement and discretion will need to be applied to ensure that contacts from the complainant about matters other than the complaints are not ignored, such as failure to respond to a request for a service.

New complaints from customers who have been regarded as unreasonably persistent will be treated on their own merits.

Withdrawal of any action taken under this policy must be undertaken in consultation with the Director/Assistant Director who invoked the sanction.

The Council recognises that customers who feel dissatisfied with the service they have received may feel angry about their treatment. However, the Council has a duty of care towards the safety and welfare of its staff.

REPORTING UNACCEPTABLE BEHAVIOUR

Unacceptable behaviour includes any action or series of actions, which are perceived by the staff member to be abusive, threatening or offensive, whether they are delivered verbally or in writing or a combination of the two. This includes not only behaviour directed at them, but also to their families or associates.

If as member of staff feels threatened by a complainant, they should report their fears and the reason for them, to their line manager. The line manager will record the details and, as part of the action arising from his/her investigation will consider:

- Writing to the perpetrator, requesting no repetition of the behaviour and, if necessary, setting conditions and restrictions for further contact with staff;
- Whether to report the matter to the police.

If such behaviour takes place during a telephone conversation, the staff member should tell the complainant they will terminate the call if the behaviour continues. If, despite this warning, the behaviour continues, the call should be terminated and a note placed on the case file, recording the circumstances of the termination. Repeated calls should be dealt with in the same way.

Repeated calls may be deemed to be harassment which, after consultation with the head of service, could be reported to the police.

Comments or enquiries about this procedure should be addressed to the Complaints Team in the first instance.