

**From:** Roger Gough – Cabinet Member for Children, Young People and Education  
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**To:** Children’s, Young People and Education Cabinet Committee - 7 September 2017

**Subject:** **COMPLAINTS AND REPRESENTATIONS 2016-17**

**Classification:** Unrestricted

**Previous Pathway of Paper:** None

**Future Pathway of Paper:** None

**Electoral Division:** All

**Summary:** This report provides information about the operation of the Children Act 1989 Complaints and Representations Procedure in 2016/17 as required by the regulations. It also provides information about the ‘non statutory’ social care complaints and complaints received about Education Services.

**Recommendation:** The Children’s Young People and Education Cabinet Committee is asked to **CONSIDER** and **COMMENT** on the contents of this report.

## 1. Introduction

- 1.1 This report provides information about the operation of the Complaints and Representations procedure relating to Specialist Children’s Services and to the Disabled Children’s Service. There is a statutory requirement on the Directorate to operate a robust complaints procedure for children and those closely involved with them. The procedure provides people with the right to be heard, the opportunity to resolve issues and to take matters further if they are not resolved. It also provides an additional safeguard for vulnerable people and the information contained in complaints and representations contributes towards quality assurance and service development.
- 1.2 The statutory complaints procedure is designed to ensure the rights and needs of the child are at the heart of the process and that young people’s voices are heard. Once a complaint has been accepted via this procedure, complainants have a right to progress through each stage: local resolution; investigation; and independent review.
- 1.3 The statutory requirement to produce an annual complaints report in respect of Children’s Social Services is included in the Children Act 1989 Representations Procedure (England) Regulations 2006. The Regulations are quite prescriptive about the type of information which needs to be included in the annual report.

- 1.4 All Children in Care in Kent are advised how to make a complaint and are informed of the advocacy service. Information about the complaint procedure is also available in leaflets, on the website, in local offices, from front line staff and via partner organisations, so that all children in receipt of services, and the adults in their lives, are encouraged to exercise their right to complain should they find themselves dissatisfied with the service.
- 1.5 In addition to the statutory complaints, the complaints team logs and administers complaints received about services excluded from the statutory complaints procedure and the “representations” from people without a statutory right to complain. Complaint information is recorded both on the complaints database and on the client record.
- 1.6 Functions excluded from the complaints procedure include child protection multi-agency decisions and certain types of court action where there are other routes for challenging the Local Authority which would make an independent investigation inappropriate. Complaints about other non-statutory functions are handled under the Council’s corporate complaints procedure. All complainants and those making representations were advised of their right to challenge the response via the Local Government Ombudsman in 2016/17.
- 1.7 Other “miscellaneous” contacts received included complaints about other local authorities and organisations, personnel issues, legal action and matters for the police.
- 1.8 Issues raised by Members of Parliament and County Councillors on behalf of constituents are usually registered and responded to as “Enquiries” but the elected representative is also advised of their constituent’s right to make a statutory complaint as appropriate.

#### **Representations made to the local authority**

<b>Type of Record</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>
<b>Statutory complaints</b>	224	222	196	210	<b>165</b>
Enquiry	149	148	139	139	126
Compliment	93	89	94	68	84
<b>Non-statutory complaints</b>	172	105	35	37	<b>120</b>
Representations and miscellaneous contact	269	316	253	288	271
<b>Complaints Total</b>	396	327	231	247	<b>285</b>

- 1.9 The Complaints Team also logs compliments which are the positive feedback received about staff and services. In 2016/17 there was an increase in the number of compliments received.

Compliments were received about the following services.

<b>Service</b>	
Adoption	6
Child Protection	11
Care Leavers Service	2
Children in Care	8
Disabled Children Service	5
Occupational Therapy	2
Respite Care For Disabled Children	62
Other	3

1.10 Set out below are a few examples of the compliments received in 2016/17

#### **Judge about a social worker**

There are very few cases I have where parents describe their social worker as outstanding. It should be replayed to her manager as I think the work has been outstanding. I noted at a previous hearing that the foster carer was not particularly kind or nice. The social worker had spotted it and arranged a new placement that in itself is not an easy thing to do and handled it as far as I can see with professionalism and care and I thank her for her contribution to the case. The new social worker has very big boots to fill. I do think she should be congratulated on her work. It is very rare for parents to describe a Social Worker in those terms.

#### **Young Person about a social worker**

Just want to say a massive THANK YOU! For what you have done for me! And how much you have stood by me! My life's changed a lot and for the good since having you as my social worker.

#### **Young Person about respite care**

Windchimes is brilliant! Like an adventure!

#### **Young Person thanking the social worker involved in her adoption**

Thank you for helping us through this whole adoption. I am very happy with the outcome and I have something to look forward to in January now. Honestly 1 million thank yous could not express how grateful I am!!

## **2. The number of statutory complaints at each stage and those considered by the Local Government Ombudsman**

2.1 It is a legal requirement to handle complaints from clients and closely associated people complaining about services for Looked After Children, Children in Need and certain other specified functions, according to the three stage complaints procedure. This requirement applies irrespective of where in the Local Authority the complaint is received. Clients and certain other people have the right to access the procedure and the Local Authority would be at risk of legal challenge if complaints were not handled according to the requirements. The requirements are detailed and prescriptive in terms of the eligibility of

complainants and which complaints must be handled under the procedure, as well as the process and timescales.

2.2 There are three stages to the statutory complaints procedure:

- Stage One - Local Resolution
- Stage Two – Investigation
- Stage Three - Independent Complaints Review Panel

2.3 The following table shows the number of complaints dealt with at each stage and provides information about the numbers received in previous years.

	2012/13	2013/14	2014/15	2015/16	2016/17
Stage One – Local Resolution	223	228	193	210	165
Stage Two – Formal Investigation	27	33	25	36	19
Stage Three – Complaints Review Panel	0	2	1	1	3
Local Government Ombudsman referral *	23	30	29	17	41

\*includes non-statutory complaints and enquiries about new complaints

2.4 Where a complaint is not resolved at Stage One, or if Stage One is not completed within the timescale, then the complainant has the right for the complaint to be considered at Stage Two of the procedures (Investigation Stage). This involves a thorough investigation into the issues and consideration of the complaint by an off-line Investigating Officer and an Independent Person.

2.5 Stage Two investigations involve valuable, in-depth examination of cases which frequently influences practice. Complainants have the right for their complaints to progress to Stage Three which is a Complaints Review Panel if they remain dissatisfied and the main issues are not upheld at Stage Two.

2.6 There has been a decrease in the number of complaints logged in the statutory complaints process but an increase in the number dealt with in the non-statutory or corporate procedure. One reason for this is an increased emphasis on trying to resolve issues prior to being logged as a complaint. A second reason is a greater focus on complaints that are not by or on behalf of children being logged in the non-statutory or corporate process rather than the statutory process.

2.7 The emphasis in the legislation and guidance is on early resolution at a local level. Kent's policy is that local managers should usually meet, or at least speak with, complainants, unless there is a good reason not to. Speaking with the complainant can help to resolve the issues and ensure there is a clear understanding of the reason for the complaint. This approach is reinforced in guidance and support is provided by the Complaints Team. Areas of the service that adopt this approach have a lower proportion of Stage Two investigations. Staff at the local level are expected to continue to try to resolve complaints when they escalate to Stage Two or beyond.

- 2.8 There was a slight increase in the number of Stage Three Complaint Review Panels held in 2016/17 (Three compared with one in the previous year). One of the reasons for this is that the Council reminded people of their right to take their complaints to a Panel after the completion of Stage Two of the procedures. Previously there had been greater emphasis on informing people of their right to take their complaints as part of an early referral to the Ombudsman.
- 2.9 A recent report from the office of the Local Government Ombudsman indicated it had received 89 complaints relating to children and education services in Kent in 2016/17. Many of these would have been initial enquiries to the Ombudsman that would have been referred to KCC for local resolution or would have been considered outside the remit of the Ombudsman. There were 41 complaints received from the Ombudsman regarding Children's Social Services in 2016/17. The numbers are quite high but this reflects the population of the county and the policy of ensuring people are aware of their right to contact the Ombudsman if they are dissatisfied.

### 3. The types of complaints made

- 3.1 This section sets out the issues raised by complainants: what the statutory complaints were about. While most complaints were not upheld they do provide an insight into how people directly affected by services experience them. The tables below sets out the service the Stage One complaints related to and the subject of the complaint.

#### Stage One complaints – by service

Children in Care	82
Children in Need	33
Care Leavers Service	19
Children with Disability	18
Assessment and Intervention	8
Duty Service (CDT)	3
Child Protection	2
Support for Foster Carers	1
Adoption	1

#### Stage One Complaints - by subject

Disputed decision	49
Behaviour of staff	32
Other	26
Needs not met	20
Lack of support	16
Assessment	9
Attitude of staff	3
Direct Payments	3
Contact with staff	3
Delay	2
Request for Service	2

- 3.2 There is some overlap between the different categories. The “Other” category refers to the complaints about isolated issues that were raised in less than 1% of the total number of complaints.
- 3.3 Particularly noticeable in 2016/17 was the number of complaints from advocates on behalf of Unaccompanied Asylum Seeker Children (UASC). There were 44 complaints either directly from the young people or from their advocates. During 2015/16 the large number of young people seeking asylum in Kent placed a major pressure on services. In response to the demand it was possible to meet basic needs but due to the volume it was not always possible to find education placements or accommodation in the areas where some young people wanted to live. Many young people had to be placed in an emergency placement and then move to a more suitable placement in due course. Increasingly the emphasis has been to work with advocates to find an early resolution to issues rather than for young people to be directed straight to the complaints procedures. The number of complaints from UASC has reduced in recent months.
- 3.4 Nearly 30% of the complaints were about disputed decisions or assessments. Some were from the children and young people themselves, complaining about proposed placement moves. Some parents disagreed with the outcome of assessments such as a decision that the child did not meet eligibility for a service or the decision to initiate safeguarding enquires. The very nature of social work with children does mean there will be times when actions and decisions have to be taken that will lead to disagreement and discontent.
- 3.5 Some of the complaints about social workers related to communication and a perception that the social worker was not keeping the individual or the family sufficiently informed. One example is a complaint from a parent about the social worker not responding to their telephone calls. Another example is where a parent complained about only being given short notice for a meeting. As in previous years, some of the complaints reflect a public perception that decisions are taken by social workers in isolation and that a change of social worker could result in a different decision.
- 3.6 Additional statistical information regarding the complaints received by Specialist Children’s Services in 2016/17 is attached as Appendix 1 to this report.

#### **4. The outcome of complaints**

- 4.1 When responses to complaints are sent, a determination is made as to whether or not the complaint was upheld. Of the 165 Stage One complaints completed in 2016/17; 11% were fully upheld and 23% were partially upheld. 7% resulted in further work or meetings planned to resolve the issue, and 1% were withdrawn and 58% were not upheld.

## Stage One Complaints By Overall Outcome

Explanation	102
Apology	35
Meeting Offered	11
Issue Resolved	10
Other	5
Financial Settlement	4
Advice	1
Practice Issues	1

- 4.2 More than one outcome was recorded for some complaints, for example, an upheld complaint may generate an apology and a financial payment. It should be noted that “Apology” is recorded only when fault has been identified. Providing an explanation remains the most common outcome of a complaint. “Issue resolved” is recorded when the complainant has agreed the resolution, usually in a meeting, before the written reply is sent.
- 4.3 In 2016/17, there were 19 Stage Two complaints. Three of these complaints were fully upheld, twelve partially upheld and three not upheld. One complaint was withdrawn.
- 4.4 Three complaints were escalated to a Stage Three Complaints Review Panel. Two of these were partially upheld and one was not upheld.

## 5. Complaints considered by the Local Government Ombudsman

- 5.1 Complainants have the right to contact the Local Government Ombudsman (LGO) at any time however the LGO will usually refer them back to the Local Authority as premature if it has not had the opportunity to consider the complaints under its own procedures. The LGO may decide to investigate a complaint prematurely on the grounds of urgency or because of the serious nature of the complaint.
- 5.2 Complainants may complain to the LGO if they wish to challenge a decision that they are ineligible to access the statutory complaints procedure.
- 5.3 The Ombudsman’s decisions were as follows:
- Ten complaints were not investigated – this includes complaints where it was determined that it was outside the jurisdiction of the Ombudsman or the decision was taken not to proceed following an initial assessment of the case.
  - Eleven complaints were considered premature as they had not been through the Council’s complaints procedure.
  - In ten complaints no fault was found and in two complaints a decision is still to be made.
  - There were eight complaints where the Ombudsman found fault with the Council:
    - 1) In one complaint foster carers complained about the management of how a placement was brought to an end. The

young person in the placement was reluctant to leave when her mother withdrew her consent for her to be in care

- 2) A parent complained about the contents of a children and families assessment report which was shared with the child's father without consultation with the mother
- 3) A person complained that the process of complaining about a child protection investigation was unclear
- 4) A father complained about his child's adoption
- 5) A mother contested a decision that her son does not meet the eligibility criteria for disabled children's services
- 6) Foster carers complained about the adoption of a child they were fostering and fault was found with the communication about counselling and their de-registration as foster carers
- 7) A person complained that the Council took too long to commence a Stage Two complaint investigation in October 2015
- 8) A care leaver was not given priority on a Local Authority Housing register due to an administrative failure by the Council.

5.4 A report was presented to the Children's Social Care and Health Cabinet Committee on 5 July 2016 regarding a case where the Ombudsman had issued a public report following a finding of maladministration. The complaint had been from a parent who wanted more support for her disabled son whilst she was at work during the school holidays. The Ombudsman was critical of the Council's Direct Payments policy as it "fettered" the Council's ability to consider each case individually. The policy was amended in light of the Ombudsman's findings.

## **6. Details about advocacy services provided under these arrangements**

6.1 It is a statutory requirement for the Local Authority to offer an advocate to a child or young person wishing to make a complaint.

6.2 A change was made to Kent's advocacy arrangements on 1 April 2015 so that there is one point of contact for independent advocacy for all children and young people in Kent wishing to make a complaint, irrespective of their status as Children in Need, Children in Care, subject to a Child Protection Plan, or as Care Leavers. The advocacy service in Kent has been provided by the Young Lives Foundation since 1 April 2015.

6.3 In 2016/17 there were 56 Stage One complaints raised by advocates on behalf of children and young people. As stated many of the complaints were on behalf of UASC. Whilst it is right that children and young people have access to advocates to support them, in recent months there has been a greater emphasis on trying to resolve the issue rather than going direct to the complaints procedure.

## **7. Compliance with timescales**

7.1 The Local Authority must consider and try to resolve the Statutory Stage One complaints within ten working days of the start date. This can be extended by a



further ten working days where the complaint is considered to be complex. Many of the complaints recorded were considered complex, for example, when more than one agency or service was involved or when cases were involved in other processes such as court proceedings.

7.2 Performance against statutory timescales in 2016/17 was as follows:

- 98% Stage One acknowledgements sent out within three working days
- 68% of Stage One responses met the 10 day timescale set
- 78% of Stage One responses met the 20 day (extended) timescale

7.3 The Local Authority should consider Stage Two complaints within 25 working days of the start date (the date upon which a written record of the complaints to be investigated has been agreed) but this can be extended to 65 working days where this is not possible. It can be challenging to meet the timescales and 53% of Stage Two responses were within the 65 day time scale.

7.4 It is also a statutory requirement to try to resolve complaints and care must be taken not to jeopardise resolution or the quality of the investigation when seeking to improve performance against timescales.

7.5 Performance against non-statutory (Corporate) timescales in 2016/17 was as follows:

- 98% complaints acknowledged within three working days
- 75% of non-statutory complaints met the 20 day timescale
- 98% of enquiries were acknowledged within three working days
- 70% of enquiries were completed within 20 working days

## **8. Learning the lessons from complaints**

8.1 A key aspect of managing complaints is to ensure lessons are learned where there have been mistakes or where the service has not been to the standard expected. Often the lessons might relate to the circumstances of an individual case and the lessons are picked up with the social worker through supervision. There are other complaints however where an individual complaint or a number of complaints about a single issue can lead to wider lessons learnt for the organisation. The lessons learnt from complaints are reported to the Specialist Children's Service Divisional Management Team and to the Disabled Children's Service Management Team.

8.2 In 2016/17 there were a number of complaints that led to lessons learnt:

- The Direct Payment Policy was amended following a complaint from a parent about the lack of support with her disabled child whilst the mother was at work. The policy was amended as it had "fettered the discretion" of the Council to look at individual circumstances
- A "Joint Homeless Protocol for 16 and 17 Year Olds" has been produced. A previous complaint had been received about a 17 year old in need of support who had been placed in Bed and Breakfast accommodation.

Although there were a number of reasons for the new protocol it should assist in reducing the likelihood of a similar complaint reoccurring

- A foster family complained about their experiences when a child moved from their care. The fostering service has reviewed what training and support it can provide to foster carers where the move is proving particularly difficult and emotional
- The development of the Lifespan Pathway service should improve transition arrangements for disabled young people. Previously there have been a number of complaints where there was a breakdown in the transfer from children's to adult services. The new arrangements with the 16 to 25 service should lead to a smoother transition and less of a "cliff edge" at age 18
- A complaint highlighted the need to ensure notification to the housing authorities where care leavers are requiring support in accessing accommodation
- A complaint about the delay in commencing a Stage Two investigation has led to an increase in the pool of investigators to call upon (following training provided by the Ombudsman's office) and a clarification of the arrangements to identify members of staff to complete investigations.

8.3 Although learning does take place in relation to complaints, in 2017/18 it is intended to look at how this can be done more systematically.

## **9. Review of the effectiveness of the complaints procedure**

9.1 The Complaints Team is situated within the Operational Support Unit, which manages both the Children Services Complaints and Adult Social Care Complaints Teams. The team deals with a vast number of complaints, enquiries and compliments. Many of the complaints can be complex and require sensitive handling. In addition to managing the complaints the team also produce regular complaints reports for management teams and weekly update reports.

9.2 The effectiveness of the complaints procedure depends on the wider organisational culture and the propensity to learn the lessons where the service has not been to the required standard. The complaints team receives the support from Senior Management for the prioritisation of complaints and ensuring the availability of Independent Investigators where a Stage Two Investigation is required.

9.3 **Training** - A training session on "Effective Complaints Handling" was delivered by an Investigator from the Local Government Ombudsman's Office on 22 February 2017. The purpose of the training was to focus on investigation skills for practitioners who may be asked to complete an independent investigation. The training was well received and has increased the pool of investigators that can be called upon to complete the Stage 2 investigations.

9.4 **Complaints Database** - Following the decision to procure a corporate database for all Directorates, a new database is being configured and implemented to meet organisational requirements. Once the database is established it should

assist with the complaint handling and enable the production of a range of complaints reports.

9.5 **Young Lives Foundation** - The Young Lives Foundation is an independent organisation which provides an Advocacy Service and the Independent Persons for the Stage Two complaints. The reports produced by the Independent Persons have generally been to a good standard and delivered within the required timescales. The Advocacy Service has also been proactive in supporting and representing children and young people to make their views known. Regular meetings take place to monitor the contract with the Young Lives Foundation.

9.6 **SEN(D) Tribunals** - Kent was part of a SEN(D) pilot scheme whereby the Tribunals considered the health and social care elements of the Education, Health and Care Plans (along with the Education elements). The pilot arrangement was in place for one year and a research company from Warwick University has reviewed the pilot scheme including obtaining feedback from Kent. The results of the research will inform a decision on whether or not the scheme will be introduced nationally.

## 10. Ofsted Inspection

10.1 The Ofsted Inspection of services for children in need, children in care and care leavers which took place from 6 March to 30 March 2017 included a review of the complaints arrangements and the analysis of a number of complaints. The review was positive and found that the complaints team “ensures that, in most cases, the response to complaints made by children and parents is timely and proportionate. The analysis of themes and issues raised by complainants is increasingly detailed, and this is helping leaders and managers to better identify the need for service changes. The next step is to establish a more coherent approach to ensuring that specific actions are followed up, and that the experiences of other children and families improve as a result. Most children who complain do so with the support of an advocate, but for some children more could be done to resolve their issues and worries at an earlier stage.”

10.2 The findings are being taken on board including the need for the development of a more coherent approach to learning the lessons and following up on actions and the need for a greater emphasis on the resolution of children’s issues at an earlier stage.

## 11. Objectives for 2017/18

11.1 Objectives for 2017/2018 include:

- To effectively implement a new complaints database
- To continue to provide useful management reports and to develop a coherent approach to learning key lessons and following up on actions from complaints and related feedback
- To continue to ensure the operation of the complaints procedures in line with statutory requirements and monitor performance standards

- To resolve complaints from children and young people at an earlier stage
- To seek user feedback from individuals who have made complaints.

## 12. Complaints about Education Services.

12.1 Complaints about Education Services are not dealt with through the Children Act or Social Care Complaints Procedures but generally fall within the Corporate Complaints procedure. Most complaints about schools are managed within each school's complaints procedure and some disagreements, for example disputes relating to Education, Health and Care Plans are considered through appeals to a statutory tribunal.

12.2 The numbers of complaints reported are those logged with the Complaints Team and will not necessarily reflect the totality of complaints received as some services manage their own complaints. In 2016/17, there were 102 Education complaints logged with the Complaints Team. This was slightly more than the 100 complaints logged in 2015/16. There were 248 enquiries logged in 2016/17, these were mostly enquiries from MPs on behalf of constituents.

12.3 The timescales for responses were as follows:

- 99% of complaints acknowledged in three working days
- 61% of complaints met the 20 day time-scale.
- 99% of enquiries were acknowledged in three working days.
- 66% of enquiries were completed in 20 working days.

12.4 Of the 102 complaints, 56 were not upheld, 18 were upheld and 20 were partially upheld. There were five where the issue was resolved, one which was for another agency to respond to, one which was considered in a separate procedure and one response is still outstanding.

12.5 Most complaints (90) were received by e-mail, seven by letter, and four by telephone and one via the website.

12.6 The complaints received about Education Services related to the following areas of work

<b>Area/District</b>	<b>Complaints Total</b>
Admissions	3
Early Help/Preventative Services	10
Education other	1
SEN All Areas	2
SEN East	23
SEN North	12
SEN South	21
SEN West	22
Transport	8
<b>TOTAL COMPLAINTS</b>	<b>102</b>

The table below sets out the Education Services which the enquiries were about

<b>Area/District</b>	<b>Total</b>
Admissions Primary	40
Admissions Secondary	16
Early Help/Preventative Services	20
Education, Planning and Access	9
Education safeguarding	6
Education other	7
Transport	56
School	10
SEN East	27
SEN North	11
SEN West	32
SEN South	10
SEN all areas	4
<b>TOTAL</b>	<b>248</b>

12.7 There were 29 cases where the Local Government Ombudsman was contacted and came to a final decision on the complaint. Of these, eight were about SEN services; four were about home to school transport and 17 related to school admissions. In most cases there was no fault found or the complaint was considered premature or was closed after initial enquiries. There were however eleven cases where the Ombudsman found fault. The complaints included one case where there was a delay by the Council in arranging suitable alternative education when a child stopped attending school, other cases included a delay in the production of Education Health and Care Plans or delays in arranging the provision that had been identified in the plans (for example the provision of occupational therapy).

12.8 Similar to Specialist Children's Services, the Education complaints will be logged on the new complaints database when it is implemented. The functionality of the new system should enable greater flexibility in terms of the presentation of statistical information about complaints and it should assist with the complaints administration.

### **13. Conclusion**

13.1 The Council continues to operate a robust and responsive service for people making complaints about Children's Services. The Children Act and subsequent regulations and statutory guidance are quite prescriptive about the procedures for handling complaints from and on behalf of children in receipt of services under the Children Act. This includes complaints from children in care, care leavers and children in need. It is important that children and families feel able to complain if they dissatisfied with the service received as it provides an opportunity to resolve issues and where the service has not been to the expected standard, it is also an opportunity to learn lessons and put things right.

## 14. Recommendations

14.1 Recommendation: The Children's Young People and Education Cabinet Committee is asked to **CONSIDER** and **COMMENT** on the contents of this report.

## 15. Background Document

None

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