



**BIRMINGHAM  
CHILDREN'S TRUST**

# **Complaints Policy & Procedure**

**December 2025**

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# **Section A – Policy Details**

## **1 Introduction**

- 1.1 Birmingham Children's Trust (BCT) is required by law to operate a three-stage procedure to manage complaints about specified functions relating to children's social care.
- 1.2 Any complaint that does not qualify for consideration under the statutory social services procedure may be considered under a two-stage non-statutory complaints procedure.
- 1.3 The purpose of this policy is to enable former, current or prospective service users to complain about the quality and nature of social care services provided by BCT, including services provided by external organisations on behalf of BCT.

## **2 Aims of the policy**

- 2.1 The complaints policy should:
  - Ensure that people who access or wish to access BCT services are treated with dignity and respect, are not afraid to make a complaint, and have their concerns taken seriously.
  - Ensure even-handedness in the handling of complaints.
  - Ensure that complaints are resolved swiftly and satisfactorily at the local level.
  - Ensure a fair process and adequate support for customers.
  - Ensure that concerns about the protection of children are referred immediately to the relevant agency.
  - Ensure a focus on reflective learning and service improvement as a result of complaints.
  - It should safeguard the child or young person's rights of access to other means of redress, such as the Local Government & Social Care Ombudsman or the Courts.

## **3 Legal framework**

- 3.1 Complaints about children's social care are regulated by:

- The Children Act 1989 Representations Procedure (England) Regulations 2006 (click [here](#)).
- Getting the Best from Complaints statutory guidance (click [here](#)).
- Advocacy Services and Representations Procedure (Children) Amendment Regulations 2004 (click [here](#)).

## **4 The Customer Relations Service**

- 4.1 The Customer Relations Service aims to provide an accessible complaints service and to promote a 'listening and learning' culture within BCT.
- 4.2 In addition to administering the complaints procedure, the Customer Relations Service provides guidance to managers who are required to investigate complaints and ensure that customers (and relevant staff members) are kept informed about the progression of complaints.
- 4.3 The Customer Relations Service will produce quarterly and annual reporting for the Trust's Leadership Team which will outline BCT's performance with respect to complaints. This will include:
- The number of complaints received at each stage;
  - The number complaints responded to within deadline;
  - The number of complaints which have been upheld;
  - The types of complaint received and trend analysis; and
  - The improvements to service identified as a result of complaints.

## **5 What is a complaint and what is the purpose of the complaints procedure?**

- 5.1 A complaint may be generally defined as an expression of dissatisfaction or disquiet in relation to services provided by BCT.
- 5.2 The complaints procedure is the mechanism used to determine whether BCT's actions (or inaction) comply with relevant legislation, guidance, policy and procedure. This enables BCT to establish whether its conduct was correct and reasonable. Where the complaints procedure identifies that conduct was not correct or reasonable, this is called fault (or maladministration).

- 5.3 The complaints procedure is not a means by which the merits of decisions or professional judgements can be challenged because they are unfavourable or in dispute.

## **6 Receiving a complaint**

- 6.1 Complaints can be made to any member of staff in the Trust, verbally or in writing. If a complaint is made to a member of staff, the Customer Relations Service should be informed as soon as possible so that the complaint can be recorded.
- 6.2 As soon as it becomes apparent that someone wishes to make a complaint, the customer should be given information about BCT's complaints procedure, including how to contact the Customer Relations Service.

## **7 Who can complain?**

- 7.1 The statutory complaints procedure enables children and young people to raise concerns about the services they have received.
- 7.2 BCT will consider complaints through the statutory procedure from:
- A child or young person who is or was looked after;
  - A child or young person who is not looked after but has been assessed as a child in need;
  - A young person who is receiving leaving care support;
  - A child or young person to whom a Special Guardianship Order is in force;
  - A child or young person who may be adopted; and
  - Adopted Persons.
- 7.3 In addition, complaints made on behalf of a child or young person from the following will also be considered through the statutory complaints procedure:
- A parent, or someone who has Parental Responsibility;
  - A guardian;
  - A foster carer (in relation to services for a child or young person);
  - A Special Guardian or person who has made an application for Special Guardianship;

- Persons wishing to adopt a child or any person for whom arrangements for the provisions of adoption services extend;
- An advocate; and
- Any person with sufficient interest in the child or young person's welfare to warrant their representation being considered (at the discretion of BCT).

- 7.4 Where a complaint is received from a representative acting on behalf of a child or young person, BCT will consider whether it should approach the child or young person to ascertain if they are happy for this to happen and that the complaint submitted reflects their views.
- 7.5 BCT has discretion to determine whether the representative has sufficient interest in the child's welfare to complain for or on their behalf. If it is determined that the representative does not have sufficient interest, they will be notified in writing, explaining that the complaint cannot be considered.
- 7.6 Where a complaint is made that relates to a child or young person but not made on the child or young person's behalf, BCT will determine whether the complainant has sufficient interest in the child's welfare to justify their complaint being considered. In reaching a decision, BCT may check with the child or young person that they are happy for the complaint to be made.
- 7.7 Anonymous complaints are recorded but fall outside of the scope of the statutory procedure. It is for BCT to determine what action it should take. However, the fact that a complaint is made anonymously should not justify a decision not to consider the concerns raised.
- 7.8 Complaints from partner agencies (for example, the Police, schools, Health etc.) will not be considered through the complaints procedure unless a child or young person has given express consent for the complaint to be made on the child or young person's behalf. Information about the protocol available to partner agencies to raise concerns can be found [here](#).
- 7.9 Concerns raised by a provider, past or present, fall outside the scope of our complaints procedures and will not be considered through this policy. Such complaints would need to be directed to the service(s) who commissioned the provider in the first instance.

- 7.10 Where a complaint is made which does not directly concern a child or young person (i.e. an adult complaining about the service they have received, which has no direct impact on a child or young person), this will be considered through the non-statutory complaints procedure.

## 8 What may be complained about?

- 8.1 A complaint may arise as a result of many things relating to the management and delivery of services for children and young people. Examples include (but are not limited to):

- An unwelcome or disputed decision;
- Concern about the quality or appropriateness of a service;
- A delay in decision making or provision of services;
- The delivery (or non-delivery) of services, including the complaints procedure;
- The quantity, frequency, change or cost of a service;
- The attitude or behaviour of staff;
- The application of eligibility and assessment criteria;
- The impact on a child or young person of the application of a policy; and
- Assessment, care management and review.

- 8.2 The statutory complaints procedure may consider complaints about the following functions:

- All functions in **Part 3** of the Children Act 1989 (click [here](#));
- The following functions in **Part 4** of the Children Act 1989:
  - **Section 31** – the decision to initiate care and supervision orders (click [here](#));
  - **Section 33** – the effect of a care order, and the actions and decisions where a care order is made (click [here](#));
  - **Section 34** – control of parental contact with children in care (click [here](#));
  - **Section 35** – how supervisors perform their duties where a supervision order is in force (click [here](#));
- The following functions in Part 5 of the Children Act 1989:
  - **Section 43** – matters that do not relate to the Court and which are specifically the actions of BCT can be considered, regarding applications for and duties in relation to child assessment orders (click [here](#));

- **Section 44** – matters relating to applications for emergency protection orders and decisions relating to the return of children who have been removed (click [here](#));
- Specified functions relating to adoption:
  - Provision of adoption support services, insofar as these enable adoptive children to discuss matters relating to adoption (click [here](#));
  - Assessments and related decisions for adoption support services, insofar as these enable adoptive children to discuss matters relating to adoption (click [here](#) and [here](#));
  - Placing children for adoption, including parental responsibility and contact issues (click [here](#));
  - Removal of children who are or may be placed by adoption agencies (click [here](#));
  - Removal of children in non-agency cases (click [here](#));
  - Duties on receipt of a notice to adopt (click [here](#));
  - Duties in respect of BCT considering adoption for a child (click [here](#));
  - Duties in respect of a proposed placement of a child with prospective adopters (click [here](#));
  - Duties in respect of placement and review (click [here](#));
  - Duties in respect of records (click [here](#));
  - Duties in respect of contact (click [here](#));
  - Parental Responsibility prior to adoption abroad (click [here](#));
- Special Guardianship support services (click [here](#)):
  - Financial support for Special Guardians;
  - Support groups for children and young people to enable them to discuss matters relating to Special Guardianship;
  - Assistance in relation to contact;
  - Therapeutic services for children and young people; and
  - Assistance to ensure the continuation of the relationship between the child or young person and their Special Guardian or prospective Special Guardian.

8.3 The non-statutory complaints procedure can consider complaints which are not eligible for the statutory procedure, providing that the grounds for complaint are not exempt from investigation.

## 9 What cannot be complained about?

9.1 The complaints procedure does not apply when:



- The person making the complaint does not meet the requirements outlined in Paragraphs 5.2 and 5.3 (statutory procedure only);
- The complaint does not relate to any of the specified functions outlined in Para 6.3 (statutory procedure only);
- The complaint does not relate to the actions or decisions of BCT (or any agency acting on behalf of BCT);
- Complaints about decisions made at Child Protection Conferences as there is a multi-agency decision with a separate procedure (click [here](#) for further information).
- The same complaint has previously been dealt with;
- The complaint is submitted more than one year after the grounds to make representation arose (discretionary);
- The customer has taken more than one year to notify BCT of their wish to escalate their complaint;
- BCT has commenced, or will imminently commence, public law proceedings in respect of the matters being complained about.
- The complaint relates to matters which have been raised and/or determined in any Court or tribunal;
- The customer has initiated or stated in writing that they are taking, or intend to take, proceedings in any Court or tribunal;
- The complaint is unclear, frivolous, vexatious or unreasonably persistent (see Appendix A);
- BCT is taking, or proposing to take, disciplinary proceedings against a member of staff being complained about; or
- BCT is notified that any person is conducting an investigation in contemplation of criminal proceedings or that criminal proceedings are pending.

9.2 If BCT determines that it will not consider a complaint for any of the above reasons, it will write to the customer to explain the basis for the decision.

9.3 BCT may “suspend” a complaint if it considers that consideration may prejudice any of the following concurrent investigations or processes.

- Court proceedings (including pre-proceedings);
- Tribunal proceedings;
- Disciplinary proceedings; or
- Criminal proceedings.

- 9.4 If a complaint is suspended, the customer will have one year from the conclusion of the concurrent proceedings to re-submit their complaint. If the grounds for complaint have been raised as part of the concurrent proceedings, the complaints procedure cannot re-consider those grounds.

## **10 Complaints about Court reports**

- 10.1 Where social work information or a social work report has been submitted to Court in respect of a specified function, a child or young person can complain about the report, for example, its quality or accuracy (distinct and separate to the subsequent actions of the Court).
- 10.2 If the child or young person's complaint is upheld, BCT should advise what action it proposes to take with regard to the Court action.
- 10.3 Complaints made by parents or other parties about the preparation or contents of Court reports will not be considered through the complaints procedure. Challenges or disagreements with the contents of Court reports should be raised in Court as this is a more appropriate and immediate avenue of redress for the customer.

## **11 Freezing decisions**

- 11.1 If a complaint is about a proposed change to a placement or a service, the decision may need to be deferred (frozen) until the complaint is considered. However, care should be taken if deferring a decision is likely to have a significant effect upon the mental or physical wellbeing of the child or young person.
- 11.2 The decision to defer should normally be made through detailed discussion between the Complaints & Information Manager and the relevant Head of Service, within the context of the work being undertaken with the child or young person.
- 11.3 Decisions need to be made on a case-by-case basis, but there should generally be a presumption in favour of freezing unless there is a good reason against it (for example, if leaving a child or young person in a placement which would put them at risk).
- 11.4 Where the Complaints & Information Manager and Head of Service have opposing views, the relevant Assistant Director or Director should determine whether or not to freeze the decision.

## **12 Complaints relating to more than one organisation**

- 12.1 Where a complaint relates to more than one organisation, BCT will liaise with the other organisation(s) to discuss how the complaint will be investigated.
- 12.2 Where appropriate, BCT will ensure that a single response is provided. If this is not possible (or appropriate), BCT will advise the customer how their complaint will be dealt with and who will be responding.

## **13 Complaints relating to more than one team**

- 13.1 If a complaint is received which relates to the action of more than one team, those teams should work together to produce a single, co-ordinated response.
- 13.2 Where required, the Customer Relations Service will provide support to co-ordinate the response to ensure that the response is issued without delay.

## **14 Confidentiality**

- 14.1 In the implementation of the complaints procedure, confidentiality should be maintained and the requirements of the Data Protection Act 2018 adhered to.
- 14.2 Customers (and staff) have the right to know what use will be made of personal information. Information will be shared only on a need-to-know basis.
- 14.3 All customers requesting independent consideration of a complaint will provide written, signed and dated agreement to sharing personal information for this purpose.
- 14.4 Those involved in the investigation should have access to the notes of their own interview in order to confirm the accuracy of the content.

## **15 Mediation**

- 15.1 Where appropriate, BCT will offer mediation as way of resolving complaints. Mediation is a structured process whereby an

independent third party assists in the resolution of disagreement. The mediator will guide the process in a constructive direction aiming to help the parties reach an agreement.

- 15.2 At the end of the mediation session, a detailed action plan with set timescales for completion will be devised and shared with all parties.
- 15.3 Mediation is a voluntary process and will only take place if both parties agree. It is a confidential process where the terms of discussion are not disclosed to any party outside the mediation hearing. Mediation can be requested – or offered – at any stage of the complaints procedure (or in between stages).

## **16 Recording and monitoring of complaints**

- 16.1 Weekly, quarterly and annual reports will be produced for senior management which will give an overview of performance at Head of Service and Team Manager level for all stages of the complaints procedures.
- 16.2 Reports will also contain information about what lessons complaints are telling us and how we have used complaints feedback to improve the quality of our services. These reports will be available under Freedom of Information Act legislation.
- 16.3 Records of any complaints including investigation reports and responses will be placed on the relevant service user's file and by the Customer Relations Service.

## **17 Publicity**

- 17.1 Information about the complaints procedure, including details of how to make a complaint and how advocacy support can be accessed, is provided on BCT's website.

## **18 Redress**

- 18.1 Where a complaint investigation identifies that there has been maladministration, BCT will acknowledge errors, apologise for them, provide an explanation, and take any necessary action.

- 18.2 Under Section 92 of the Local Government Act 2000, BCT is empowered to remedy injustice arising from maladministration. Remedies can include, but are not restricted to, financial redress. Remedies should only be considered on a case-by-case basis on its own individual merits and with regard to BCT's policy on financial redress (see Appendix B).

## **19 Unreasonably persistent complaints and unacceptable behaviour**

- 19.1 BCT is committed to dealing with all complaints fairly and impartially, and to provide a high quality service to those who complain. While access to the complaints service is not normally limited, there are a small number of customers who, because of the frequency and/or the manner of their contact, seriously hinder consideration of their own complaints – and the complaints of others.

- 19.2 Features of unreasonably persistent or unacceptable behaviour include:

- making the same complaint repeatedly or with minor differences but never accepting the outcome;
- seeking an unrealistic outcome and persisting, although it cannot be achieved;
- contacting multiple members of staff in BCT (and other agencies) to make the same complaint.
- not engaging or co-operating with the investigation process. This includes not responding to the investigating officer or providing information that has been requested.

- 19.3 When the nature or volume of contact becomes unreasonable, BCT will review future contact arrangements (see Appendix A).

## **20 Advocacy**

- 20.1 If a child or young person requires support to make a complaint, the Rights & Participation Service provides advocacy for children and young people. Advocates provide independent and confidential information, advice, representation and support.

20.2 The Rights & Participation Service can be contacted by calling 0121 303 7217 or by emailing [advocacy@birminghamchildrenstrust.co.uk](mailto:advocacy@birminghamchildrenstrust.co.uk).

## **Section B – Statutory Complaints Procedure**

### **• Stage 1 – Local Resolution**

Stage 1 complaints should be responded to at a local level, normally by the Team Manager who is responsible for the service being complained about. Where a complaint concerns the actions or conduct of the Team Manager, an alternative Team Manager or Head of Service will be identified.

There is a 10 working day timescale for Stage 1 complaints, which starts from the date of case acceptance. This timescale can be extended to 20 working days if the complaint is complex or if an advocate needs to be appointed.

A copy of the complaint and accompanying information will be sent to the Adjudicating Officer by email. The Adjudicating Officer should make contact with the customer to discuss the complaint and their desired outcomes.

Once the complaint investigation has been completed, the Adjudicating Officer should provide a written response which includes the following:

- A finding for all of the complaints made and desired outcomes;
- The details of learning/service improvement the complaint has identified;
- The details of any actions which will be taken as a result of the complaint, including a timescale for completing actions; and
- advice about how the customer may pursue their complaint if they remain dissatisfied.

### **• Stage 2 – Independent Investigation**

All requests for a stage 2 investigation should be made in writing to the Customer Relations Service. The stage 2 request should specify why the customer remains dissatisfied and what outcome(s) they are seeking.

Ideally, stage 2 requests should be made within 20 working days of the stage 1 response but requests will be accepted for up to one year of the stage 1 response.

Once the stage 2 complaint is accepted, the Customer Relations Service will appoint an independent Investigating Officer and Independent Person to carry out the investigation.



The Investigating Officer and Independent Person will meet with the customer to discuss the complaint and agree a Statement of Complaint. The Statement of Complaint will detail the complaints and desired outcomes and forms the basis of the investigation.

Once the Statement of Complaint has been agreed by the customer and accepted by BCT, the timescale for completing the stage 2 investigation is 25 working days. However, this can be extended to a maximum of 65 working days where the complaint is complex. If the timescale is extended, the customer must be contacted in writing to advise them that an extension is required.

The Investigating Officer will write a report which will give their findings on each individual complaint aspect, comment on the desired outcomes and, where appropriate, make recommendations of actions BCT should take as a result of the complaint findings. In some cases, the Investigating Officer may also submit a confidential addendum report if there are areas of concern which they wish to raise with BCT but not the customer.

The Independent Person will also produce a brief report including their view upon whether the investigation has been conducted fairly.

Both reports are shared with an Assistant Director who will act as Adjudicating Officer at stage 2. The Adjudicating Officer will consider the reports and provide a written response which includes the following:

- Comment on the Investigating Officer's findings and recommendations, as well as the customer's desired outcomes;
- The details of learning/service improvement the complaint has identified;
- The details of any actions which will be taken as a result of the complaint, including a timescale for completing actions; and
- advice about how the customer may pursue their complaint if they remain dissatisfied.

### • **Stage 3 – Review Panel**

Stage 3 is the final stage of the procedure and reviews whether the complaint was adequately investigated at stage 2.

All stage 3 requests should be made in writing to the Complaints & Information Manager. The stage 3 request should specify why the customer remains dissatisfied and what outcome(s) they are seeking.

Ideally, stage 3 requests should be made within 20 working days of the stage 2 response but requests will be accepted for up to one year of the stage 1 response.

The Review Panel consists of three independent people, one of whom will chair the Panel. The Customer Relations Service will ensure that the appropriate people involved with the Stage 2 investigation will also be invited to attend. The customer can also be accompanied by another person for support. If the customer is a child or young person, the support person can speak on the customer's behalf.

Stage 3 cannot consider any new complaints or re-investigate matters investigated at stage 2. The Review Panel will:

- Review the complaints and consider the adequacy of the Stage 2 investigation;
- Take a problem solving approach;
- Focus on achieving resolution and avoid a legalistic approach to the review;
- Listen to all parties;
- Reach findings and make recommendations.

The Review Panel will be held within 30 working days of receipt of a valid request. A letter will be sent not less than ten working days before the Panel to the customer and all other parties confirming the date and location of the Panel and will include copies of the complaint papers,

### ***The Panel Meeting***

The Panel meeting consists of two sessions:

- An open session, where all attendees are present; and
- A closed session, where only the three Panel members and a representative from the Customer Relations Service is present.

The Chair will commence the Review by explaining its purpose and the need for confidentiality. The Chair will advise the customer of the respective roles and responsibilities of those present and address any questions or concerns that the customer may have about the process. The Chair will ensure that the focus is on the Statement of Complaint from the stage 2 investigation.

The purpose of the Review Panel is for Panel members to understand each party's opinion of the complaint rather than an opportunity to cross-examine attendees. The Panel meeting will begin with presentations on the points of

the complaint and desired outcomes by the customer (or their support person). Panel will also invite comment from the BCT representative, as well as the Investigating Officer and Independent Person at stage 2.

Panel members should then have sufficient opportunity to ask questions of all present and seek clarification on the issues being discussed so they are in a position to make recommendations regarding the outcome.

The Panel will then go into closed session to reach a determination and form a view about whether BCT adequately dealt with the complaint at stage 2. The Panel Chair will produce a written report with recommendations addressed to the Director of Practice within five working days of the Panel Meeting.

A response to the Panel's report and recommendations will be made by Director of Practice within 15 working days of the Panel Chair's report. The response will include the following:

- Comment on the Review Panel's findings and recommendations;
- The details of learning/service improvement the complaint has identified;
- The details of any actions which will be taken as a result of the complaint, including a timescale for completing actions; and
- advice about how the customer may pursue their complaint if they remain dissatisfied.

## • **The Local Government & Social Care Ombudsman**

Once the complaints procedure has concluded, a customer may contact the Local Government & Social Care Ombudsman. The Ombudsman is the final stage for complaints about BCT. The Ombudsman is a free service that investigates complaints in a fair and independent way.

While customers can approach the Ombudsman at any time, there is an expectation that customers make their complaint to BCT in the first instance to allow opportunity for local resolution. Accordingly, complaints made directly to the Ombudsman may be referred back to BCT as 'premature' for investigation through the appropriate complaints procedure.

The Ombudsman's contact details are:

The Local Government & Social Care Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH

The Ombudsman's Advice Team can be contacted on.

**Tel:** 0300 061 0614

**Fax:** 024 7682 0001

**Text:** 'call back' to 0762 480 4299

**Email:** [advice@lgo.org.uk](mailto:advice@lgo.org.uk)

**Web site:** [www.lgo.org.uk](http://www.lgo.org.uk)

## **Section C – Non-Statutory Complaints Procedure**

### **• Stage 1 – Local Resolution**

Stage 1 complaints should be responded to at a local level, normally by the Team Manager who is responsible for the service being complained about. Where a complaint concerns the actions or conduct of the Team Manager, an alternative Team Manager or Head of Service will be identified.

There is a 20 working day timescale for Stage 1 complaints, which starts from the date of case acceptance.

A copy of the complaint and accompanying information will be sent to the Adjudicating Officer by email. The Adjudicating Officer should make contact with the customer to discuss the complaint and their desired outcomes.

Once the complaint investigation has been completed, the Adjudicating Officer should provide a written response which includes the following:

- A finding for all of the complaints made and desired outcomes;
- The details of learning/service improvement the complaint has identified;
- The details of any actions which will be taken as a result of the complaint, including a timescale for completing actions; and
- advice about how the customer may pursue their complaint if they remain dissatisfied.

### **• Stage 2 – Review**

All stage 2 review requests should be made in writing to the Customer Relations Service. The request should specify why the customer remains dissatisfied and what outcome(s) they are seeking.

There is a 25 working day timescale for Stage 2 complaints, which starts from the date of case acceptance.

Ideally, stage 2 requests should be made within 20 working days of the stage 1 response but requests will be accepted for up to one year of the stage 1 response.

The stage 2 review is normally completed by the line manager of the stage 1 Adjudicating Officer or by the Customer Relations Service (the Reviewing Officer).

The Reviewing Officer will consider the adequacy of the investigation and response made at stage 1. If further information is required from the customer or the stage 1 Adjudicating Officer, the Reviewing Officer will contact to discuss the complaint.

Once the complaint review has been completed, the Reviewing Officer should provide a written response which includes the following:

- A finding for all of the complaints considered and the desired outcomes;
- The details of learning/service improvement the complaint has identified;
- The details of any actions which will be taken as a result of the complaint, including a timescale for completing actions; and
- advice about how the customer may pursue their complaint if they remain dissatisfied.

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# **Appendix A – Managing Unreasonably Persistent & Vexatious Behaviour**

## **Introduction**

The Trust is pleased to hear from its customers when services are appreciated, but we also want to know when things go wrong. We are committed to dealing with complaints fairly and impartially and to providing a high-quality service to those who make them. As part of this service, the Trust does not normally limit the contact that customers have with staff.

However, a very small minority of customers make complaints that are vexatious, in that they persist unreasonably with their complaints, or make complaints in order to make life difficult for the Trust (rather than genuinely to resolve a grievance). This may involve making serial complaints about different matters or continuing to raise the same or similar matters over and over again.

The frequency of contact with the Trust can hinder the consideration of their complaints and the ability of officers to provide a quality service to customers as a whole.

How we manage these customers will depend upon their nature and extent. If their persistence adversely affects our ability to do our work and provide a service to others, we may need to address unacceptable behaviour by restricting contact.

## **Aim and Scope**

This policy and guidance covers all complaints made to the Trust and sets out the approach to dealing with persistent and/or vexatious complaints so that both staff and customers can be clear what to expect.

Examples of persistent and/or vexatious behaviours include (but are not limited to):

- The refusal to specify the grounds of a complaint, despite offers of assistance with this from staff.
- The refusal to co-operate with the complaints investigation process or insistence on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice.

- Making what appear to be groundless complaints about staff (or contractors) who are investigated complaints.
- Attempting to use the complaints procedure to pursue a personal vendetta against an employee or team.
- Making unnecessarily excessive demands on the time and resources of Trust staff whilst a complaint is being looked into.
- The refusal to accept information provided, for no apparent good reason.
- Changing the basis of the complaint as the investigation process goes on and/or denying statements made at an earlier stage.
- Making statements or providing manufactured 'evidence' the customer knows are incorrect or persuading others to do so.
- Raising at a later stage in the process, significant new information which was in the customer's possession when he or she first submitted a complaint.
- Introducing trivial or irrelevant new information or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Lodging numbers of complaints in batches over a period of time, resulting in related complaints being at different stages of a complaints procedure.
- The refusal to accept that issues are not within the remit of the complaints procedure or demanding outcomes which the complaints procedure cannot provide, such as the overturning of Court decisions, staff dismissal or criminal prosecution of staff.
- The covert recording of meetings, telephone calls and conversations without the prior knowledge and consent of the other persons involved.
- Seeking to coerce, intimidate or threaten staff or other people involved, whether by use of language, tone of voice or behaviour including body language.
- Submitting repeat complaints, after the complaints process has been completed, essentially about the same issues, with additions/variations which the customer insists make these 'new' complaints which should be put through the full complaints procedure.
- Using valid new complaints to resurrect issues which were addressed previously.
- Persistence in contacting the Trust and demanding responses or action long after the Trust has closed its investigation into a complaint and all rights of review and appeal have been exhausted.



## **Threats, Abuse and Harassment of Staff**

The Trust believes that everyone has the right to be treated with dignity and respect and that threatening or abusive behaviour or harassment is unacceptable. The Trust will actively work to prevent any form of threats or abuse to staff from happening in the first instance and where it has already occurred, will work to prevent it from happening again.

Harassment is a term that is generally used to define unwelcome and unwarranted behaviour that affects the dignity of an individual or group of individuals. Harassment may also include the following:

- Bullying, which may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour, or behaviour that attempts to undermine or injure an individual or group of individuals.
- Discrimination/victimisation, which may be characterised as any act of inappropriate differential treatment, intentional or otherwise, direct or indirect, which is based on an individual's identity.

### **Level 1 – Behaviour which requires a formal warning**

Where there are concerns about a customer's behaviour which cannot be addressed informally, they should contact the Complaints & Information Manager to discuss why the behaviour is causing concern, giving clear and comprehensive evidence and outlining how the behaviour needs to change.

If the evidence supports the concern, the appropriate Assistant Director and/or the Complaints & Information Manager will write to the customer, outlining the discussion which has taken place with the Head of Service and providing a clear explanation of the actions BCT may take if the unreasonably persistent and/or vexatious behaviour does not change. A copy of this procedure should be enclosed with the letter.

NB. The Trust has discretion to restrict a customer's contact without a formal warning if a customer is threatening or abusive to staff, and may, depending on the severity of the incident, refer the contact to the Police.

## **Level 2 – Restriction of Contact**

If the unacceptable behaviour continues after a formal warning, or if the behaviour is so extreme as to require immediate action, the Trust will write to the customer advising them of what restrictions have been put in place and for what period.

Any restriction imposed on a customer's contact with the Trust will be appropriate and proportionate, and the customer will be advised of the period of time the restriction will be in place for. In most cases, restrictions will apply for between three and six months but in exceptional cases may be extended. In such cases, the restrictions will be reviewed on a quarterly basis.

Examples of restrictions may include:

- Placing time limits on telephone contact.
- Restricting the number of telephone calls a customer can make
- Banning the customer from making contact by telephone except through a third party (such as an advocate).
- Banning the customer from telephoning, texting or emailing individual BCT officers and insisting communications are in made in a specified format.
- Banning the customer from accessing any Trust buildings except by appointment.
- Requiring contact to take place with a named member of staff only.
- Restricting telephone calls to specified days / times / duration.
- Requiring any personal contact to take place in the presence of an appropriate witness.
- Letting the customer know that BCT will not reply to or acknowledge any further contact from them on a specific topic.
- Contacting the relevant Police authority.

When the decision has been taken to apply this procedure to a customer, the letter to the customer will explain:

- Why BCT has taken the decision to apply the procedure;
- What action it is taking;
- The duration of that action and when it will be reviewed;
- The right of appeal.

Where a customer continues to behave in a way which is unacceptable, BCT may decide to refuse all contact, refer the matter to the police and/or take legal action. In such cases, BCT may not give the customer prior warning of that action.

### **Level 3 – Appeal**

If an appeal is submitted after a restriction of contact, the grounds for appeal will be considered by an appropriate senior manager and responded to within ten working days.

The appeal response will explain the right to contact the Local Government & Social Care Ombudsman.

### **New complaints**

New complaints from customers who have been subject to this procedure will be treated on their own merits. The Complaints & Information Manager will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. BCT does not support a “blanket policy” of ignoring genuine referrals, service requests or complaints.

### **Review of complaints or customers**

The status of a customer judged to be unreasonably persistent or vexatious will be reviewed by the Complaints & Information Manager before the end of the restriction period. Where the restriction applies for more than six months, the restriction will be reviewed every three months after the first review. The customer will be advised of the outcome of the review.

## **Appendix B – Remedies**

### **Introduction**

Section 92 of the Local Government Act 2000 ('payment in cases of maladministration' allows a 'relevant authority' to make a payment to an individual to compensate for that authority's own maladministration, if the authority considers that it is appropriate.

This policy applies to justified complaints handled under statutory and non-statutory complaints procedures where:

- Action taken by or on behalf of BCT amounts to or may amount to maladministration; and
- A person has been or may have been adversely affected by that action.

### **Aim**

The aim of this policy is to provide BCT a means of resolving complaints at the earliest opportunity to the satisfaction of the customer so as to prevent the unnecessary time, resource and cost implications of escalation to subsequent stages of the complaints procedures, Ombudsman or the Courts.

This policy applies to all services, whether provided directly by BCT or by agencies on BCT's behalf.

### **Types of remedy**

The range of remedies covered by this policy includes:

- Apology;
- A review of policy and procedure;
- Direct action;
  - Provide a Service;
  - Deliver Staff training or action;
- Financial
  - Quantifiable financial loss;
  - Loss of non-monetary benefit;
  - Distress, harm, risk or other unfair impact
  - Time and Trouble

## **Key questions in recommending a remedy**

- What outcome does the customer want to achieve by complaining?
- What has gone wrong?
- What is the personal injustice?
- Can action be taken to put the person affected back in the position they would have been in if nothing had gone wrong?
- Is there an actual quantifiable financial loss, such as costs incurred or payments not received?
- On what basis can loss of non-monetary benefit be calculated?
- How severe was any other impact in terms of distress, harm or risk?
- Did the actions or inactions of the customer or a third party contribute to or lessen the injustice?
- Is there a more appropriate form of payment than cash (e.g. trust fund, annual leisure card)?
- Overall, is the remedy proportionate, appropriate and reasonable?

To assist the complaints process in maintaining a customer focus and complying with its' timescales, this policy will allow for the payment of financial compensation for delays in dealing with a complaint beyond the stated target times where that delay is unreasonable and avoidable.

## **Exceptions**

This policy does not apply to:

- matters subject to current legal action;
- any settlement of court proceedings;
- disputes about matters covered by our insurance policies;
- any settlement of an insurance claim.