
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

**The Children and Young People (Scotland) Act
2014 (Part 4 and Part 5 Complaints) Order 2016**

Procedure for consideration of a complaint

5.—(1) After receiving a complaint, the investigating authority must consider the complaint in accordance with this article.

(2) The investigating authority must consider whether the complaint has been made in accordance with articles 2 to 4 of this Order and—

(a) if it considers that the complaint has not been made in accordance with articles 2 to 4 of this Order, the authority must write to the person aggrieved—

(i) advising why it cannot consider the complaint; and

(ii) advising of any other mechanism available for addressing the complaint of which the authority is aware; or

(b) if it considers that the complaint has been made in accordance with articles 2 to 4 of this Order, the authority must then decide whether the complaint can be determined effectively without using the investigation procedure.

(3) In deciding whether a complaint can be determined effectively without using the investigation procedure the investigating authority must take account of—

(a) the functions to which the subject matter of the complaint relates; and

(b) the need to determine the complaint in a fair and objective manner.

(4) If the investigating authority decides that the complaint can be determined effectively without using the investigation procedure, it must—

(a) consider and determine the complaint; and

(b) within 5 working days, beginning with the day on which the complaint was received, write to the person aggrieved with the determination of the complaint, setting out the matters mentioned in article 8(1) so far as they are applicable to the complaint.

(5) If the investigating authority decides that the complaint cannot be determined effectively without using the investigation procedure, it must—

(a) within 3 working days, beginning with the day on which the complaint was received, write to the person aggrieved stating that the complaint requires to be investigated before it can be determined; and

(b) investigate the complaint in accordance with the investigation procedure.

(6) If a person aggrieved who receives a determination in accordance with paragraph (4)(b) is not satisfied with the determination, they may request that the investigating authority investigate the complaint in accordance with the investigation procedure.

(7) A request as mentioned in paragraph (6)—

(a) may be made by any means mentioned in article 4(1); and

(b) subject to paragraph (8), must be made within 20 working days beginning with the day on which the determination of the complaint was received.

(8) A request may be made outwith the period mentioned in paragraph (7)(b) where the investigating authority is satisfied that there are special circumstances which prevented the person aggrieved from making the request within that period.

(9) If at any time the investigating authority in respect of a complaint considers it appropriate, it may agree with the person aggrieved that the investigation procedure is required in respect of that complaint.

(10) Where an investigating authority receives a request as mentioned in paragraph (6), or where it agrees in accordance with paragraph (9) that the investigation procedure is required, the authority must—

(a) within 3 working days beginning with the day on which the request was received or, as the case may be, agreement was reached, write to the person aggrieved stating that it intends to investigate the complaint; and

(b) investigate the complaint in accordance with the investigation procedure.

(11) In addition to complying with paragraph (2)(a), (4)(b), (5)(a), or (10)(a), the investigating authority must—

(a) consider whether there are other means of communication which might assist the person aggrieved in understanding the information mentioned in those paragraphs; and

(b) if it considers that there are such means of communication, communicate the information by those means, so far as it is reasonably practicable to do so.