
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the 1991 Representations Procedure (Children) Regulations to reflect the changes made by the Adoption and Children Act 2002 and the Health and Social Care (Community Health and Standards) Act 2003 to the provisions for the procedures under the Children Act 1989 (the Act) for considering representations, including complaints.

The major differences between the procedures established under the 1991 Regulations and those established under these Regulations are: extension of local authority functions about which representations can be made under section 26 (they are previously limited to functions under Part 3 of the Act)(regulation 7); introduction of a requirement on local authorities to attempt informal resolution of all representations under the Act procedure (presently local resolution only applies to representations made under section 24D) (regulation 15); and removal of the panel stage of the procedure (complainants may instead have their representations further considered by an independent panel established under separate regulations made under section 26ZB of the Act).

Regulation 4 requires the local authority to designate a senior officer with responsibilities in relation to representations and regulation 5 requires the local authority to appoint a complaints officer.

Regulation 6 imposes requirements as to training of local authority staff.

Regulation 8 establishes a procedure for consideration of how representations shall be dealt with where there is a concurrent consideration by another person or body. This allows for the local authority to suspend consideration temporarily where to continue would compromise or prejudice the other consideration. Regulation 9 provides for determination of which local authority will consider representations where more than one is involved.

Representations may be made orally or in writing (regulation 11) and may be withdrawn orally or in writing (regulation 14).

One of the categories of people who may make representations under section 26 of the 1989 Act are, by section 26(3)(e) such other persons (not being the child, parent, foster parent or person with parental responsibility for the child) as the local authority consider has a sufficient interest in the child's welfare to warrant that person's representation being considered by the authority. Regulation 13 requires the local authority to decide whether the complainant has such sufficient interest and to notify that decision to the complainant and to the child if appropriate.

Regulation 16 establishes the procedure for formal consideration of the representations where there has been no local resolution achieved under regulation 15. The procedure under regulation 16 must involve an independent person appointed under regulation 17; the procedure under regulation 15 need not involve the independent person.

Regulation 18 sets out requirements in relation to the response to be sent by the local authority including as to the complainant's right to request further consideration of the representations by an independent panel under the procedure established under section 26ZB of the Act.

Regulation 19 sets out how local authorities are to monitor the arrangements they have made with a view to ensuring that they comply with the Regulations.