
WELSH STATUTORY INSTRUMENTS

2005 No. 3365

**The Representations Procedure
(Children) (Wales) Regulations 2005**

PART IV

HANDLING AND CONSIDERATION OF REPRESENTATIONS

Making representations

11. Representations may be made orally or in writing (including electronically).

Duty of the local authority to provide information and assistance for complainants

12.—(1) As soon as possible after receiving the representations the local authority must—

- (a) provide the complainant with—
 - (i) details of the procedure set out in these Regulations; and
 - (ii) where appropriate, information about advocacy services; and
- (b) offer the complainant—
 - (i) assistance and guidance on following the procedure or advice on where he or she may obtain it; and
 - (ii) where appropriate, help in obtaining an advocate.

Representations made by “other persons” under section 26(3)(e) of the Act

13.—(1) Where a local authority receive representations from a complainant falling within section 26(3)(e) of the Act, they must as soon as possible decide whether that person has a sufficient interest in the welfare of the child concerned to warrant the representations being considered by the local authority.

(2) In reaching a decision under paragraph (1) the local authority must take into account the ascertainable views of the child concerned.

(3) If the local authority decide that the complainant does have sufficient interest then they shall consider the representations.

(4) If the local authority decide that the complainant does not have sufficient interest then they must notify the complainant of the decision and that no further action will be taken to consider the representations.

(5) The local authority must notify the child concerned of the decision made under paragraph (1) if they consider it appropriate to do so having regard to the understanding of the child.

Withdrawal of representations

14.—(1) Representations may be withdrawn orally or in writing at any time by the complainant or by an advocate.

(2) The local authority must as soon as possible write to the complainant and any advocate to confirm the withdrawal of the representations.

Local Resolution

15.—(1) The local authority must take all reasonable steps to resolve the representations as soon as is reasonably practicable and subject to paragraphs (2) and (4), within 10 working days beginning—

(a) in the case of representations falling within section 26(3)(e), on the date on which the local authority decide the complainant has a sufficient interest to warrant the representations being considered;

(b) in any other case, on the date on which the representations were received by the local authority.

(2) The period referred to in paragraph (1) may be extended upon request by the complainant or with the complainant's agreement by up to a further 10 working days.

(3) The procedure followed by the local authority in trying to resolve matters under paragraph (1) need not involve an independent person.

(4) Where a complainant has requested an advocate the local authority may extend the period specified in paragraph (1) by up to a further 10 working days to enable an advocate to be appointed provided that—

(a) the local authority notify the complainant of the extension;

(b) the local authority notify the complainant of—

(i) the steps taken to date to arrange an advocate; and

(ii) the complainant's right to have the representations considered without involvement of an advocate.

(5) For the purposes of paragraph (1), the local authority may in any case where it would be appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the representation.

(6) Where the representation is resolved under paragraph (1), the local authority must confirm in writing to the complainant the agreed resolution.

(7) Where the representations have not been resolved within 20 working days, the local authority must, as soon as practicable, notify the complainant in writing of:

(a) the complainant's right to request that the representations be formally considered;

(b) the procedure for requesting such further consideration; and

(c) the date by which such a request must be made having regard to the provisions of paragraph (8).

(8) The complainant may request orally or in writing that the representations be formally considered under regulation 16 at any time within 30 working days of the date on which the representations were first made.

Formal Consideration

16.—(1) Where the complainant has requested formal consideration of the representations, subject to regulations 8, 9 and 10, the local authority must investigate the representations to the

extent necessary and in the manner which appears to the authority most appropriate to resolve the representations speedily and efficiently.

(2) The local authority must compile a formal written record of the representations as soon as is reasonably practicable and send it to the complainant with an invitation to the complainant to comment on its accuracy.

(3) The local authority must consider any comments made by the complainant under paragraph (2) and in the light of those comments make any amendments to the record which are necessary to ensure it is, in the opinion of the authority, an accurate record of the representations.

(4) Except where arrangements have been made under regulation 15(5) the local authority may in any case where it would be appropriate to do so, and with the agreement of the complainant, make arrangements for conciliation, mediation or other assistance for the purposes of resolving the representations.

(5) The local authority must—

- (a) explain to the complainant how the representations will be investigated; and
- (b) send a copy of the representations to any person who is the subject of the representations unless—
 - (i) this has already been done; or
 - (ii) notification at that time would prejudice the consideration of the representations.

(6) The local authority may—

- (a) invite the complainant and any other person whom the authority considers may be able to assist with the resolution of the representations to be interviewed; and
- (b) take such advice as appears to the complaints officer to be required.

(7) Where any person is interviewed in accordance with paragraph 6(a) the local authority must—

- (a) send a copy of the draft record of the interview to the person interviewed;
- (b) invite that person to comment on the accuracy of the draft record;
- (c) consider any comments made by the person; and
- (d) in the light of those comments make any amendments to the record which, in the opinion of the authority, are necessary to ensure that the record is accurate.

(8) The local authority must take all reasonable steps to keep the complainant informed about the progress of its formal consideration of the representations.

Appointment of independent person

17.—(1) The arrangements made under regulation 16 must include the appointment of an independent person.

(2) The independent person shall take part in any consideration of the representations by the local authority under regulation 16.

(3) The independent person shall take part in any discussions which are held by the local authority about the action to be taken in light of their findings in relation to the representations and conclusions they draw from them.

Response

18.—(1) The local authority must prepare a written response to the representations which—

- (a) summarises the nature and substance of the representations;
- (b) describes the investigation under regulation 16 and summarises the conclusions;

- (c) explains what action will be taken to resolve the representations;
- (d) where appropriate, contains an apology to the complainant; and
- (e) identifies what other action, if any will be taken in the light of the representations.

(2) Subject to paragraph (3) and to regulation 13, the response must be sent to the complainant within 25 working days beginning on the date on which the local authority received the request from the complainant for formal consideration.

(3) If, in the case of—

- (a) any representations where there has been difficulty in the determination of their nature or substance;
- (b) representations which have been treated as subject to concurrent consideration under regulation 8; or
- (c) any other representations where the complainant has agreed to a later response,

it is not possible for the response to be sent within 25 working days the local authority must notify the complainant of the reason for the delay, the date by which it expects to send the response and must send that response as soon as reasonably practicable.

(4) The response must include information about—

- (a) the complainant's right to request that the representations be further considered by an independent panel in accordance with provisions in regulations made by the National Assembly under section 26ZB of the Act⁽¹⁾;
- (b) the procedure for requesting such further consideration; and
- (c) the time within which such request must be made.

(5) Copies of the response prepared in accordance with paragraph (1) must be sent to—

- (a) the complainant's advocate;
- (b) the independent person appointed under regulation 17;
- (c) any person who was the subject of the representations;
- (d) where the representations are care standards representations mentioned in regulation 10, to the person registered under the Care Standards Act 2000 or Children Act 1989 as provider in respect of the establishment or agency.

(1) S.I.2005/3366 (W.263).