
WELSH STATUTORY INSTRUMENTS

2005 No. 3366

**The Social Services Complaints
Procedure (Wales) Regulations 2005**

PART III

NATURE AND SCOPE OF THE COMPLAINTS PROCEDURE

Persons who may make complaints

9.—(1) A complaint may be made by any person to whom the local authority has a power or duty to provide, or secure the provision of, a service which, if provided, would be provided as a social service function and whose need, or possible need for such a service has (by whatever means) come to the attention of the local authority.

(2) A complaint may be made by a person (a “representative”) acting on behalf of a person mentioned in paragraph (1) in any case where that person—

- (a) is a child; or
- (b) has requested the representative to act on his or her behalf; or
- (c) is not capable of making the complaint personally.

(3) A complaint may be made by a person (a “representative”) in respect of a person who has died.

(4) Any representative making a complaint under paragraph (2)(a) or (c) or under paragraph (3) must, in the opinion of the local authority have, or have had, an interest in the person’s welfare and be a suitable person to act as representative.

(5) If in any case the local authority is of the opinion that any person making a complaint under paragraphs (2)(a) or (c) or (3) does not have sufficient interest in the person’s welfare or is not a suitable person to act as a representative, the authority must notify the person in writing immediately, stating the reasons for that opinion.

(6) Where notification is given under paragraph (5) and the person referred to in paragraph (1) in respect of whom the complaint has been made is alive the local authority must, if it considers it appropriate to do so having regard to the understanding of the person referred to in paragraph (1), provide that person with a copy of the notification.

(7) In these Regulations any reference to a complainant includes a reference to his or her representative.

Matters about which complaints may be made

10.—(1) Subject to paragraph (2) a complaint to a local authority may be about the exercise of its social services functions including—

- (a) the discharge by a local authority of any of its social services functions;
- (b) the provision of services by another person pursuant to arrangements made by such an authority in the discharge of those functions;

- (c) the provision of services by such an authority or any other person in pursuance of arrangements made by the authority under section 31 of the Health Act 1999⁽¹⁾ in relation to the functions of an NHS body (within the meaning of that section).

(2) A complaint may not be made under these regulations about the exercise of functions under sections 31, 33, 34, 35, 43, 44 and 47 of the Children Act 1989.

Matters excluded from consideration

11. These Regulations do not require arrangements to be made for the investigation of any complaint which has been investigated—

- (a) under these Regulations,
- (b) under any former complaints provisions, or
- (c) by a Commissioner for Local Administration.

Complaints subject to concurrent consideration

12.—(1) Where a complaint relates to any matter—

- (a) about which the complainant has stated in writing that he or she intends to take proceedings in any court or tribunal, or
- (b) about which the local authority are taking or are proposing to take disciplinary proceedings, or
- (c) about which the local authority have been notified that an investigation is being conducted by any person or body in contemplation of criminal proceedings, or
- (d) about which a meeting involving other bodies including the police has been convened to discuss issues relating to the protection of children or vulnerable adults, or
- (e) about which the local authority have been notified that there are current investigations in contemplation of proceedings under section 59 of the Care Standards Act 2000,

the local authority must consider, in consultation with the complainant and any other person or body which the authority consider appropriate to consult, how the complaint should be handled. Such a complaint shall be referred to for the purposes of this regulation as a “complaint subject to concurrent consideration”.

(2) The consideration of a complaint subject to concurrent consideration under this Part of the Regulations may be discontinued if at any time it appears to the local authority that to continue would compromise or prejudice the other consideration.

(3) Where the local authority decide to discontinue the consideration of a complaint under paragraph (2) the authority must give notice of that decision to the complainant.

(4) Where the local authority discontinue the consideration of any complaint under paragraph (2), they may at any time resume their consideration.

(5) Where consideration of a complaint has been discontinued under paragraph (2) the local authority must ascertain the progress of the concurrent consideration and notify the complainant when it has been concluded.

(6) The local authority must resume consideration of any complaint where the concurrent consideration is discontinued or completed and the complainant requests that the complaint be considered under these Regulations.

(1) 1999 c. 8.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*
