

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace the Social Services Complaints Procedure (Wales) Regulations 2005 (“the 2005 Regulations”) and introduce a new procedure which makes provision for complaints to local authorities about the exercise of their social services functions, with the exception of certain functions capable of being considered as representations under the Children Act 1989 and under the Adoption and Children Act 2002 which are dealt with in accordance with the Representations Procedure (Wales) Regulations 2014.

The major difference between the procedures established under the 2005 Regulations and those established under these Regulations is the removal of the independent panel stage and the introduction of a two stage process involving local resolution and if this is not achieved, the requirement for an investigation and response.

Part 2 makes provision about the arrangements for the setting up of a complaints procedure. Regulation 3 sets out the duty on the local authority to establish the complaints procedure. Regulation 4 requires the local authority to designate a senior officer to be responsible for ensuring compliance with arrangements made by the local authority. Regulation 5 requires the local authority to appoint a complaints officer to manage the procedures for handling and considering complaints. Regulation 6 imposes an obligation on the local authority to ensure that its complaints procedure is effectively publicised. Regulation 7 provides for electronic communication. Regulation 8 requires the local authority to ensure that its staff are appropriately trained.

Part 3 (regulations 9 to 14) sets out the nature and scope of the complaints procedure including matters that will not be considered by the local authority under its complaints procedure as well as specifying how a local authority must deal with matters that are determined as being subject to concurrent consideration. This Part also sets out the time limits for making a complaint (regulation 13) and the ability of the complainant to withdraw a complaint (regulation 14).

Part 4 (regulations 15 to 19) sets out the procedure for considering complaints. Regulation 15 requires that a complaint must be acknowledged within 2 working days. Regulation 16 requires that the complainant must be offered a discussion in an attempt to informally resolve the complaint. That discussion must take place within 10 working days of the date upon which the local authority acknowledges receipt of the complaint. If the complaint is made orally then the complaint must be committed to writing and sent to the complainant. If informal resolution of the complaint is achieved then the local authority must write to the complainant with details of the terms of such resolution. The 10 day time limit may be extended in exceptional circumstances by agreement between the local authority and the complainant.

Regulations 17 and 18 prescribe the second formal stage of the process that involves the local authority investigating the complaint together with an independent investigator. This stage will apply if the complainant refuses an offer of a discussion; if the complainant elects to have the complaint dealt with under this procedure; or if the complaint has not been resolved to the satisfaction of the complainant at the local resolution stage. Regulation 18 requires the local authority to send a written response which must be signed by the Director of Social Services to the complainant within 25 working days of the production of a final written record of the complaint. Regulation 19 sets out the procedure in the event that a complaint concerns the actions of more than one local authority.

Part 5 sets out the duty upon local authorities to monitor the arrangements they have made with a view to ensuring that they comply with these Regulations and makes provision for an annual report to be prepared.

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

Part 6 contains provision for revocation, transitional arrangements and amendments.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Social Services Strategy and Improvement Division, Department for Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.