



WIRRAL SPECIAL EDUCATIONAL NEEDS AND DISABILITIES (SEND) COMPLAINTS POLICY AND PROCEDURE

Date: April 2025

1. INTRODUCTION

Wirral Council is committed to providing excellent services within its statutory SEND services but on some occasions individual customers, e.g. children/young people and families, may not be satisfied with the service provided.

The mechanism by which the Council will consider complaints about statutory SEND services is via this policy to ensure transparency.

The complaints policy and procedure will be available through the Council's website, the Department's publicity material and Wirral's Local Offer website (SENDLO).

2. SEND CODE OF PRACTICE

2.1 The SEND Code of Practice 2015—provides statutory guidance on the responsibilities set out in the Children and Families Act 2014 in relation children and young people with special educational needs and disabled children and young people.

2.2 Included within the Code of Practice are the relevant duties, procedures and policies required to resolve disagreements between parents or young people and early years providers, schools, colleges, local authorities or health commissioners. This includes disagreement resolution and mediation arrangements, local authority complaints processes, tribunals and other avenues for dispute resolution. Information regarding these avenues is available on SENDLO, in line with the Code of Practice.

3. PURPOSE OF THE POLICY

The purpose of this policy is to outline Wirral local authority's approach for dealing with complaints made to the local authority in relation to services provided to children and young people who receive a service from Wirral's SEND Statutory Assessment and Referral Team (SENDSTART).

SECTION 1: COMPLAINTS MADE TO THE LOCAL AUTHORITY

4. DEFINITION OF COMPLAINT

A complaint is...

“An expression of dissatisfaction about the council’s action or lack of action or about the standard of a service, whether the action taken, or the service was provided by the council itself or a body acting on behalf of the council”

5. WHO CAN COMPLAIN?

5.1 The following people have the right for their complaint to be considered:

- Parent or carers of children (under compulsory school age) with a special educational need or disability.
- A young person (a person over compulsory school age and under 25): Some young people will not have the mental capacity to make certain decisions or express their views. Decisions about mental capacity are made on an individual basis and may vary according to the nature of the situation. In cases where a young person lacks mental capacity to engage in the complaint procedure a complaint can be made by a parent or representative on their behalf. Depending upon individual circumstances the consent of the young person for the representative to act on their behalf may be requested before a complaint can progress.
- Advocates acting on behalf of parents or a young person who have written consent to make a complaint and receive personal information on their behalf.

6. WHAT CAN BE COMPLAINED ABOUT?

The local authority Complaints Service will deal with concerns and complaints in relation to the following:

- Delays in the Education Health & Care Needs Assessment Process
- Delays in the Annual Review Process
- Lack of Provision specified in Section F of an EHC Plan
- Communication issues

7. WHAT WILL NOT BE CONSIDERED A COMPLAINT

7.1 The following complaints will not be considered:

a) Anonymous Complaints: Anonymous complaints cannot be considered by the Council’s complaint procedures. However, dependant on the nature of the complaint, the SEND Complaint Officer will decide whether any action can/should be taken about the issue that has been raised.

b) Complaints about access to information where procedures and remedies are set out in legislation e.g. Freedom of Information Act, Data Protection Act

c) Statutory complaints about Children's Social Care

d) Statutory complaints about Adult Social Care

e) Complaints about issues where there is a statutory appeal process available, e.g. Mediation and/or SENDIST appeal.

f) Complaints about an issue where the complainant has sought legal remedy; or have notified the Local Authority that they intend to pursue legal remedy, e.g. Judicial Review.

g) Complaints against decisions made by the Council where there are concurrent proceedings e.g. disagreement resolution procedures, mediation or tribunal, legal proceedings (or the intention to pursue legal intervention). This is to prevent these proceedings being compromised.

N.B Complaints may be considered once proceedings have concluded in relation to matters that have not had legal oversight. In these circumstances a complaint should be made within twelve months of the conclusion of proceedings.

g) Complaints about schools or early years providers: Providers and schools should have their own complaints procedures and policies in place.

8. TIME LIMIT FOR MAKING COMPLAINTS

8.1 Complaints made more than one year after the grounds to make the representation arose will not usually be considered, unless there are exceptional circumstances as to why the complaint could not have been made earlier. In these cases, the Complaints Manager will ask the complainant about the reason for delay and decide whether to use their discretion to progress the complaint.

8.2 The time limit may be extended at the discretion of the Complaints Manager if there are reasonable grounds for the complainant not being able to have made the complaint earlier; and it is still possible to consider the representations effectively and efficiently. If the Complaint Manager decides not to progress the complaint they will advise the complainant of their right to approach the Local Government Ombudsman.

9. ASSISTANCE AND SUPPORT

9.1 The SEND Complaint Officer will offer advice so that children/young people and parents can understand the complaint procedure and take part in complaints processes.

This may include providing information and signposting to other services such as the Disagreement Resolution Service, Mediation and Council's Corporate Complaint Policy where appropriate.

9.3 Individuals are entitled to access their own advocacy and support through WIRED, an independent organisation commissioned to provide advocacy for parents.

9.4 For children and young people making a complaint in their own right, they will be given information regarding advocacy services which are available.

10. COMPLAINTS MADE DIRECTLY TO THE SERVICE

10.1 If a complaint is made directly to a member of staff, the SEND Complaint Officer should be informed so the complaint can be recorded and monitored. There may be no need to engage the formal complaint procedure if the matter can be resolved quickly (within 5 working days).

All frontline staff are empowered to try to resolve customer concerns at the point of first contact. If a concern expressed by a service user is cannot be not resolved within 5 working days or agreement cannot be reached on how the matters are to be resolved, the issue should be forwarded to the SEND Complaint Officer for formal registration under this procedure.

11. MAKING A COMPLAINT

11.1 Concerns or complaints should be made to the SEND Complaint Officer via email at sendresolution@wirral.gov.uk , by letter to the address below or by telephoning 0151 666 3611.

PO Box 290
Brighton Street
Wallasey
Wirral
CH27 9FQ

11.2 On receipt of a SEND related complaint, the SEND Complaint Officer will;

- Consider whether the complaint made is within remit of the complaint policy and:
 - ❖ If within remit, register the complaint and provide formal acknowledgement.
 - ❖ If not explain why and inform the complainant of their right to approach the Local Government and Social Care Ombudsman.

12. STAGE 1

12.1 The relevant points of the complaint will be registered by the SEND Complaint Officer and details of the complaint and desired remedy (if known) will be forwarded to the appropriate Manager within the SEND Service.

12.2 Managers tasked with responding to Stage 1 complaints should be open and flexible in their attempt to resolve the complaint and should examine how best to approach resolution, this could include meeting with the complainant to discuss their issues of concern rather than only communicating in writing.

12.3 The Manager undertaking Stage 1 must write to, or meet with, the complainant to inform them of the outcome of their investigation and any action they propose to take to try and resolve the complaint. If a meeting takes place the Manager must write to the complainant to confirm the outcome of the meeting. The response to stage 1 will be sent to the SEND Complaint Officer who will record and send to complainant .

12.4 The manager responding at Stage 1 must consider appropriate remedy if fault has been found and should use the Local Government and Social Care Ombudsman's guidance on remedies to scaffold this.

12.5 If the complainant believes the matter remains unresolved the complainant may wish to have their complaint considered for escalation; in this case the complainant must write to the Complaint Manager **within 20 days** of receiving the response to stage 1. The letter must include:

- the issue(s) which remain unresolved;
- an outline of why the complainant is dissatisfied with the response.
- what remedy would resolve their complaint

13. TIMESCALES

13.1 Stage 1 complaints must be responded to within 20 working days.

13.2 If a response has not been received by the complainant within the agreed timescale for stage 1 the SEND Complaint Officer will liaise with the complainant and appropriate manager to expedite a response in a timescale agreeable to the complainant. If after the intervention of the Officer, a response is not received, the complainant may elect to have the complaint considered at Stage 2 of the Complaints Procedure.

14. STAGE 2 – FORMAL REVIEW

14.1 Upon receipt of a request for escalation the Complaints Manager will liaise with the complainant to ensure that proposed complaints are within the remit of the complaints procedure.

14.2 For complaints which were upheld at Stage 1, the Complaints Manager can offer alternative resolution if this is in agreement with the complainant. Stage 2 Alternative Resolution comprises of a review of the complaint by a member of the senior management team who will consider organisational learning and appropriate remedy. A written response to Stage 2 Alternative Resolution will be provided within 15 working days.

14.3 For complaints taken forward for investigation at Stage 2, the Complaint Manager will agree the points of complaint for formal registration with the complainant. The Complaint Manager will then allocate an investigating officer and advise the complainant regarding timescale for completion.

14.4 The Investigating Officer will have access to all relevant Local Authority records and staff. If records from other agencies are required to facilitate a thorough investigation the Investigating Officer will make a written request that the agency in question produce relevant information within the bounds of normal confidentiality and with regard to the Data Protection Act 2018.

14.5 Stage 2 investigations will be completed within a maximum of 65 working days.

14.6 The Investigating Officer will invite the complainant to engage in the investigation process and maintain communication with the complainant regarding progress.

14.7 On completion of the investigation the Investigating Officer will produce a written report detailing:

- Findings, conclusions and outcomes against each point of complaint;
- Recommendations on how to remedy any fault found to the complainant (if appropriate).

14.8 The Complaint Manager will receive the investigation report, provide quality assurance, produce an action plan in relation to any recommendations made by the investigation and consider appropriate remedy.

15. ADJUDICATION

15.1 The Complaints Manager will present the report, action plan and any recommendations regarding a remedy a member of the senior management team who will act as Adjudicating Officer and consider:

- The Registered Complaints;
- The Investigating Officer's findings, conclusions and recommendations;
- Complainants desired outcomes;
- Action Plan;
- Any recommendation regarding remedy.

15.2 The Adjudicating Officer will prepare a formal response to the complaint, including his/her decision on the complaint and any actions that will be taken with timescales for implementation. The formal response will be sent to the complainant together with copies of the Investigating Officer's report. The Stage 2 response will provide complainants with details of the Local Government Ombudsman if they remain dissatisfied.

15.3 The Adjudication Officer may provide an opportunity for the complainant to meet with them to discuss the outcome in relation to serious or complex investigations.

15.4 The Adjudicating Officer is responsible for ensuring that the action plan is implemented.

This is the conclusion of the SEND Complaints procedure

16. UNREASONABLE AND PERSISTENT COMPLAINANTS

16.1 Children's Services are committed to dealing with all concerns and complaints fairly. However, there are a small minority of individuals who hinder the consideration of their or other people's complaints; or use unacceptable behaviour. Some examples of actions and behaviours which are designated as unreasonable or unreasonably persistent are:

- Abusive, offensive or threatening behaviour;
- Refusing to specify the grounds of a complaint despite offers of assistance from staff;
- Refusing to accept that issues are not within the remit of the complaints procedure despite having been provided with information about the scope of the procedure;
- Insisting complaints are dealt with in ways which are incompatible with the complaint's procedure;
- Introducing trivial or irrelevant new information which the complainant expects to be considered and commented on; or raising large numbers of detailed but unimportant questions and insisting they are all fully answered;
- Making unnecessarily excessive demands on the time and resources of staff, for example by excessive telephoning; sending e-mails to numerous council staff or writing lengthy complex letters every few days and expecting immediate responses.

16.2 When it is considered that a complainant is unreasonable or unreasonably persistent the Complaints Manager, in consultation with the Head Effectiveness, may take a decision to restrict access to the complaint procedure. Any restrictions imposed will be appropriate and proportionate and may include:

- Requesting contact in a particular form (for example letters only);
- Requiring contact to take place with a named officer;
- Restricting telephone calls to specified days and times; and/or
- Asking the complainant to enter into an agreement about their conduct.

16.3 In all cases the Complaints Manager will write to the complainant to inform them why his or her behaviour falls into the category of unreasonable or unreasonably persistent, what action will be taken and the duration of such action.

16.4 Where a complainant whose complaint is closed persists in communicating a decision can be made to terminate all contact with the complainant. In such cases the complaints manager will read all correspondence, place it on file and take no further action.

SECTION 2: COMPLAINTS RELATING TO OTHER SERVICES/PROVIDERS

17. Information about the Council's statutory complaint procedures and corporate complaints procedure is available to view at www.wirral.gov.uk.

18. COMPLAINTS TO EARLY YEARS PROVIDERS AND SCHOOLS

18.1 Early years and schools' complaints procedures should be followed in relation to children and young people who have SEN but are without EHC plans.

18.2 All Ofsted registered childminders should have complaints procedures in place. Where the childcare provision is run by a school, the school's complaints procedure should be used.

18.3 State-funded schools must have and publish their procedure for dealing with complaints. Governing bodies should ensure that anyone who wishes to make a complaint, including a complaint in relation to children and young people with SEN, whether they have EHC plans or not, is treated fairly, given the chance to state their case, provided with a written response (including the rationale for any decisions) and informed of their appeal rights.

18.4 Academies, free schools and independent schools must have a complaints procedure which is made available to parents.

19. POST-16 INSTITUTION COMPLAINTS

Complaints at general further education colleges can be made informally to the teacher or the Principal, or through the college's formal complaints procedure.



ACCOUNTABLE



AMBITIOUS



**RESIDENT
FOCUSED**



PROFESSIONAL