
WELSH STATUTORY INSTRUMENTS

2005 No. 3366

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

PART VI

THE INDEPENDENT PANEL HEARING

The Independent Panel

21.—(1) The Assembly must take such steps as it considers reasonable, including as to administrative and financial arrangements, to establish a panel to further consider complaints under this Part.

(2) In particular the Assembly must prepare and keep up to date two lists of persons who in its opinion are suitable to further consider complaints under this Part.

(3) The persons appointed to one of the lists established under paragraph (2) must have experience in the provision of services which must or may be provided by local authorities under the Local Authority Social Services Act 1970⁽¹⁾ or which are similar to such services (“the list of persons with social services experience”). The persons appointed to the other list (“the list of lay persons”) should not have such experience.

(4) A person is not to be regarded as suitable for appointment under paragraph (2) if he or she is employed by, or is an elected member of, a local authority in Wales.

Request for an independent panel hearing

22.—(1) A complainant may request that a complaint is further considered by an independent panel in accordance with this Part in any case where—

- (a) a local authority has decided that it will not consider a complaint under regulation 9(5);
- (b) for any reason formal consideration under regulation 19 has not been completed within 3 months of the date on which the complaint was made;
- (c) the complainant is dissatisfied with the result of formal consideration by the local authority under regulation 19;
- (d) for any reason formal consideration under the Representations Procedure (Children) (Wales) Regulations 2005⁽²⁾ has not been completed within 3 months of the date on which the representation was made; or
- (e) the complainant is dissatisfied with the local authority’s formal consideration of representations made under the Representations Procedure (Children) (Wales) Regulations 2005.

(1) 1970 c. 42.

(2) S.I.2005/3365 (W.262).

(2) Subject to paragraph (3) a request under paragraph (1) must be made to the Assembly within 20 working days of the day on which the written response to the complaint was sent to the complainant under regulation 20(2) or notification sent under regulation 9(5) or the written response sent to the complainant under regulation 18(2) of the Representations Procedure (Children)(Wales) Regulations 2005.

(3) Where a request is made under paragraph (1)(b) or (d) it must be made within 20 working days of the complainant becoming aware that the local authority has not sent a written response to the complaint or representation within 3 months of the date on which it was made.

(4) Where a complainant notifies the local authority complained against that he or she requests further consideration of the complaint by an independent panel under paragraph (1) the local authority shall, as soon as practicable, inform the Assembly of the request and the request shall be treated as having been made to the Assembly on the date that it was received by the local authority.

Duty on local authorities to co-operate with the Assembly

23.—(1) Where a request for an independent panel hearing is made under regulation 22(1) the local authority which is the subject of the complaint must provide such assistance as may reasonably be required to enable the Assembly to discharge its functions under this Part.

(2) The assistance that may be required under paragraph (1) includes the production of information or documents relevant to a complaint notwithstanding any rule of common law that would otherwise prohibit or restrict such production.

Initial handling of request

24.—(1) When the Assembly receives a request for a panel hearing it must—

- (a) acknowledge receipt of the request in writing within 2 working days;
- (b) ask the complainant to provide within 20 working days if one has not already been provided, a written statement setting out the basis of the complaint and why the complainant is dissatisfied with the local authority's response;
- (c) inform, in writing, the local authority complained against and send it a copy of the complainant's letter requesting a panel hearing and, when available, a copy of the complainant's statement requested under sub-paragraph (b);
- (d) request from the local authority the complaints file and any information and documents relevant to the complaint.

(2) The Assembly must convene a panel to further consider the complaint within 20 working days of receipt of the complainant's written statement of the complaint.

(3) The panel must consist of 3 members, one drawn from the list of persons with social services experience and two drawn from the list of lay persons.

(4) One of the panel members drawn from the list of lay persons must be appointed by the Assembly to chair the panel.

Procedure of the panel hearing

25.—(1) In further considering the complaint the panel may adopt such procedures as it determines are most appropriate for dealing with the complaint.

(2) Before the panel determines to adopt a procedure for dealing with a complaint it must consult the complainant and any person who is the subject of the complaint.

(3) In the event of any disagreement as to the procedure that is to be adopted for dealing with the complaint the decision of the chair of the panel is final.

- (4) The panel may make such enquiries and take such advice as it determines are appropriate.
- (5) The panel must ensure that the complainant and any person who is the subject of the complaint are given the opportunity to present their case orally or, if they so wish, in writing.
- (6) The panel or a member of the panel may interview any person who is not the complainant or a subject of the complaint if the panel considers that they may be able to provide information relevant to the complaint.
- (7) At any interview or meeting with a panel member the complainant and any person who is the subject of the complaint may be accompanied by a relative or friend and by any person chosen by him or her to act as an adviser.
- (8) A person accompanying a complainant or person who is the subject of a complaint may, with the consent of the chair of the panel, speak to the panel.
- (9) Any meeting of the panel or of any member of the panel with another or with the complainant or any person who is the subject of the complaint shall be in private.

Report of the panel

- 26.**—(1) The chair of the panel must prepare a written report which—
- (a) summarises the findings of fact made by the panel relevant to the complaint;
 - (b) summarises the conclusions of the panel;
 - (c) recommends what action, if any, should be taken to resolve the complaint;
 - (d) recommends what other action, if any, should be taken as a result of the complaint; and
 - (e) sets out the reasons for the findings, conclusions and recommendations of the panel.
- (2) The report may include suggestions which the panel consider would improve the services of the local authority or which would otherwise be effective for the purpose of resolving the complaint.
- (3) The report must be delivered to the Assembly within 5 working days of the conclusion of the panel hearing.
- (4) Subject to paragraph (5) the Assembly must send copies of the report of the panel to—
- (a) the complainant;
 - (b) any independent person appointed under regulation 17 of the Representations Procedure (Children) (Wales) Regulations 2005;
 - (c) any person on whose behalf a complaint has been made by a representative;
 - (d) the panel members; and
 - (e) the Chief Executive and Director of Social Services for the authority which is complained against.
- (5) The panel chair may withhold any part of the panel’s report where, in his or her opinion, this is necessary in the interests of protecting the confidentiality of any third party.
- (6) If the panel chair is unable to make the report available to the Assembly within the time set out in paragraph (3) the Assembly must write to the persons who are entitled to a copy of the report explaining the reason for the delay and when the report will be available.

Response of the local authority

- 27.** The local authority must, within 15 working days of receipt of the report of the panel—
- (a) decide what action the authority will take in the light of the recommendations of the panel; and

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

- (b) notify that decision to the complainant and any person on whose behalf a complaint has been made by a representative.

Complaint to the Ombudsman

28. The notice sent under regulation 27(b) must explain the complainant's right to complain to the Public Services Ombudsman for Wales (*Ombwdsmon Gwasanaethau Cyhoeddus Cymru*).