
STATUTORY INSTRUMENTS

2006 No. 1738

The Children Act 1989 Representations
Procedure (England) Regulations 2006

PART 4

Representations - consideration

Local resolution - consideration

14.—(1) Where a local authority have received representations from a complainant then unless the complainant and the local authority agree that the representations should not be considered in accordance with this regulation, the local authority must consider and try to resolve the representations as soon as is reasonably practicable and in any event within 10 working days of the start date as defined in paragraphs (3) and (4).

(2) The procedure followed by the local authority in considering representations under paragraph (1) need not involve an independent person.

(3) For the purposes of this regulation the “start date” means—

- (a) in the case where representations are received from a person falling within section 26(3)(e), (3B)(b) or (3C)(c) of the Act, the date on which the local authority decide that the person making the representations has a sufficient interest to warrant his representations being considered by them;
- (b) in the case where the complainant has asked for an advocate but as at the date on which the representations were received by the local authority an advocate had not been appointed for him, the date on which an advocate is appointed;
- (c) in any other case, the date on which the representations were received by the local authority.

(4) But the start date may, at the request of the complainant, be a date after that defined in paragraph (3) that the complainant agrees with the local authority.

(5) The local authority may extend the period for considering representations under this regulation by a maximum of 10 working days where they consider the representations to be complex.

Local resolution - conclusion

15.—(1) Where the local authority and the complainant have resolved matters under regulation 14 then the local authority must as soon as possible provide the complainant and, where one has been appointed, his advocate with written details of the terms of the resolution.

(2) Where the local authority and the complainant have not resolved matters under regulation 14 then the complainant or, where one has been appointed, his advocate may request orally or in writing that the representations be considered under regulation 17.

Preparation of written record of representations

16.—(1) This regulation applies where the complainant has made his representations orally and he has—

- (a) agreed with the local authority that his representations should not be considered in accordance with regulation 14; or
- (b) made a request in accordance with regulation 15(2).

(2) Where this regulation applies then the local authority must as soon as possible after reaching an agreement with the complainant or receiving a request from him—

- (a) prepare a written record of the representations;
- (b) invite the complainant's comments on it; and
- (c) amend it as they consider necessary in light of the complainant's comments on its accuracy.

(3) The final written record prepared under paragraph (2) shall be treated for the purposes of the following regulations as the representations.

Investigation of representations

17.—(1) Where—

- (a) the complainant and the local authority have agreed that the representations should not be considered in accordance with regulation 14; or
- (b) the complainant has made a request under regulation 15(2),

then the local authority must consider the representations in accordance with this regulation.

(2) The procedure followed by the local authority in considering representations under paragraph (1) must include the appointment of an independent person.

(3) The local authority must consider the representations under this regulation with the independent person and send notice of their response to the complainant and, where one has been appointed, to his advocate within 25 working days of the start date as defined in paragraphs (4) and (5).

(4) For the purposes of this regulation the “start date” means the date on which—

- (a) the local authority and the complainant agreed in accordance with regulation 14(1) that the representations should not be considered under that regulation; or
- (b) the local authority received the complainant's request under regulation 15(2).

(5) But where the complainant made his representations orally then the “start date” means the date on which the local authority produce the final written record of the representations in accordance with regulation 16.

(6) If the local authority are not able to comply with the time limit provided for in paragraph (3) then they must, before that time limit has passed, tell the complainant in writing—

- (a) the reason for their failure to comply with the time limit; and
- (b) the date, being no later than 65 working days from the start date, by which they will have concluded their consideration and sent notice of their response.

(7) The independent person appointed in accordance with paragraph (2) must take part in any discussions which are held by the local authority about—

- (a) the action that the local authority will take in light of the matters which have been found in the consideration of the representations; and
- (b) the conclusions that the local authority draw from them.

(8) The notice of the local authority's response sent in accordance with paragraph (3) must include information about—

- (a) the complainant's right under regulation 18 to request that the representations be further considered by a panel in accordance with regulation 19; and
- (b) the procedure for making such a request.

Request for review panel

18.—(1) Where the complainant is dissatisfied with the outcome of the investigation of his representations under regulation 17 the complainant or, where one has been appointed, his advocate may request that the representations be further considered by a panel in accordance with regulation 19.

(2) A request under paragraph (1) must be made within 20 working days of the date on which the complainant received the notice of the local authority's response and must set out the reasons for the complainant's dissatisfaction with the outcome of the investigations.

Review panel

19.—(1) Where the local authority have received a request in accordance with regulation 18 they must appoint a panel to consider the representations.

(2) The panel shall consist of three independent persons, one of whom will chair the panel.

(3) The independent person appointed in accordance with regulation 17(2) may not be a member of the panel.

(4) The panel shall meet within 30 working days of the local authority receiving a request in accordance with regulation 18.

(5) At its meeting the panel shall consider—

- (a) any oral or written submissions made by—
 - (i) the complainant or, where one has been appointed, by his advocate on his behalf;
 - (ii) the local authority; and
 - (iii) such other person as the panel consider has sufficient interest in the representations to warrant his submissions being considered by them; and
- (b) any oral or written submissions which the independent person appointed in accordance with regulation 17(2) wishes to make.

(6) If the complainant attends the meeting of the panel he may be accompanied throughout the meeting by his advocate, where one has been appointed, and by another person of his choice, and may nominate the advocate or that other person to speak on his behalf.

Recommendations

20.—(1) After the meeting referred to in regulation 19 the panel shall decide on their recommendations and compile a written report which must set out—

- (a) a brief summary of the representations; and
- (b) the panel's recommendations for the resolution of the issues raised in the representations.

(2) Within 5 working days of the meeting the panel must send its report to—

- (a) the local authority;
- (b) the complainant and, where one has been appointed, his advocate;
- (c) the independent person appointed under regulation 17(2); and

- (d) any other person whom the panel consider has sufficient interest in the case to warrant their receiving such a notice.
- (3) Within 15 working days of receiving the panel's recommendations the local authority must, together with the independent person appointed under regulation 17(2), consider the recommendations and determine—
 - (a) how the authority will respond to them; and
 - (b) what they propose to do in the light of them,and send to the complainant its response and proposals, along with information about making a complaint to a Local Commissioner⁽¹⁾.

(1) For the powers of the Local Commissioners for England see Part 3 of the Local Government Act 1974 as amended.